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Military Construction, Veterans Affairs, and Related Agencies: FY2009 Appropriations

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Summary

Soon after it convened, the 111th Congress initiated H.R. 1, the American Recovery and Reinvestment Act of 2009 (ARRA), otherwise known as the "economic stimulus." Passed by both chambers and enacted by President Barak Obama on February 17, 2009, the Act adds approximately $4.3 billion to the $119.6 billion regular FY2009 appropriations for military construction and veterans affairs accounts contained in Division E of the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act for FY2009. The President's request for those funds and Congress' disposition of the request are discussed in this report on pp. 2 through 9, below. The balance of the report discusses those parts of the President's regular FY2009 budget request covered by the Military Construction, Veterans Affairs and Related Agencies appropriations bill.

President George W. Bush submitted his regular FY2009 appropriations request to Congress on February 4, 2008, including $115.3 billion for programs covered in the regular Military Construction, Veterans Affairs and Related Agencies appropriations bill: $24.4 billion for Title I (military construction and family housing); $90.8 billion for Title II (veterans affairs); and $183 million for Title III (related agencies). Compared with funding appropriated for FY2008 (emergency supplemental appropriations are pending), this represented increases for Title I of $3.8 billion (18.3%), for Title II of $3.2 billion (3.6%), and for Title III of $16.7 million (10.1%). The overall increase in appropriations between that requested for FY2009 and enacted for FY2008 is $7.0 billion (6.4%).

The House and Senate Committees on Appropriations reported their versions of the FY2009 Military Construction, Veterans Affairs and Related Agencies appropriations bill on June 24 (H.R. 6559) and July 22 (S. 3301), 2008, respectively. The bill's legislative path is laid out in detail in the *Regular Fiscal Year 2009 Appropriations* section of this report. The House committee recommended appropriating $118.7 billion in new budget authority, $3.4 billion above the President's request. This included $24.8 billion for Title I, $400 million above the request and $4.2 billion above the FY2008 enactment. The Senate committee recommended $119.8 billion, including $24.7 billion for Title I. The Continuing Appropriations Act appropriated $119.6 billion, including $25.0 billion for Title I. In the area of veterans' non-medical benefits, mandatory spending is increasing as claims for disability compensation, pension, and readjustment benefits increase due to a combination of several factors including the aging of the veterans population and the current conflicts in Iraq and Afghanistan. As a result of the increase in the number of claims, the average processing time for a disability claim in FY2007 was 183 days. To reduce the pending claims workload and improve processing time, funds were provided in the FY2008 appropriation for hiring and training additional claims processing staff. In FY2008 mandatory spending was $44.5 billion, increasing to $46.0 billion in FY2009.

In terms of medical care afforded to veterans, similar to the past six years, the Administration has included several cost sharing proposals including increase in pharmacy copayments and enrollment fees for lower priority veterans. An additional proposal would bill veterans directly for treatment of nonservice-connected conditions. The House Appropriations Committee draft bill provides $40.8 billion for Veterans Health Administration for FY2009, a 9.6% increase over the FY2008 enacted amount of $37.2 billion, and 4.1% above the President's request of $39.2 billion. The bill did not include any provisions that would give the Department of Veterans Affairs the authority to implement fee increases.

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Most Recent Developments

The President enacted H.R. 2638, the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009, which included the Military Construction and Veterans Affairs Appropriations Act, 2009, as its Division E on September 30 as P.L. 110-329.[1]

On January 26, 2009, Representative David R. Obey, chair of the House Committee on Appropriations introduced H.R. 1, the American Recovery and Reinvestment Act of 2009 (ARRA), which supplemented some military construction and veterans affairs appropriations accounts. The bill was signed by the President on February 17 to become P.L. 111-5.

The first portion of the "Summary and Key Issues" section of this report, "'Economic Stimulus' Funding," beginning on p. 2, discusses the $4.3 billion ARRA addition to military construction and veterans affairs appropriations. This second portion, "Regular Fiscal Year 2009 Appropriations", explains the regular FY2009 appropriations bill, includes a detailed description of its legislative path, and begins on p. 9.

Status of Legislation

Table 1. Status of FY2009 Military Construction, Veterans Affairs, and Related Agencies Appropriations (H.R. 6599, S. 3301, H.R. 2638)

Committee Markup		House Report	House Passage	Senate Report	Senate Passage	Conf. Report	Conference Report Approval		Public Law
House	Senate						House	Senate	
06/24/08	07/17/08	H.Rept. 110-775	08/01/08	S.Rept. 110-428	09/27/08	—	—	—	P.L. 110-329

Table 2. Status of FY2009 National Defense Authorization (H.R. 5658, S. 3001)

Committee Markup		House Report	House Passage	Senate Report	Senate Passage	Conf. Report	Conference Report Approval		Public Law
House	Senate						House	Senate	
05/14/08	05/12/08	H.Rept. 110-652	05/22/08	S.Rept. 110-335	09/17/08	—	—	—	P.L. 110-417

[1] Division A of the House amendment, the Continuing Appropriations Act, 2009, extends appropriations for most governmental operations through the passage of regular appropriations bills or March 6, 2009, at a rate consistent with that provided in the Consolidated Appropriations Act, 2008 (P.L. 110-161). Division B is the Disaster Relief and Recovery Supplemental Appropriations Act, 2009. Division C is the Department of Defense, 2009. Division D is the Department of Homeland Security Appropriations Act, 2009.

No official committee conferences were held for either the appropriations or authorization bills before they were enacted. Rather, the appropriations bill was inserted as part of an amendment to H.R. 2638, a Department of Homeland Security appropriations bill for FY2008 that had been passed by both chambers but never enacted. The amended bill, renamed the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act for FY2009, was subsequently passed by both houses without referral to committee and enacted.[2]

The authorization bill was passed and enacted via a different procedural route, but also without recourse to conference. The authorization bill was subject to an exchange of amendments between the houses, a method known as the "ping pong" procedure, before being cleared for the White House.[3]

Summary and Key Issues

The first portion of this section examines those parts of the American Recovery and Reinvestment Act of 2009 (H.R. 1, the ARRA, enacted on February 17, 2009, as P.L. 111-5) that touch on military construction and veterans affairs appropriations accounts. The section's second portion, beginning on p. 9, discusses the regular FY2009 appropriations to these same accounts enacted on September 30, 2008.

'Economic Stimulus' Funding

On January 26, 2009, three weeks after the 111th Congress convened, Representative David R. Obey, chair of the House Committee on Appropriations, introduced H.R. 1, the American Recovery and Reinvestment Act of 2009, or ARRA, also known as the "economic stimulus." Title X of the bill added funding to several military construction and veterans affairs appropriations accounts. The original bill was referred to the House Committees on Appropriations and Budget. It was brought up for consideration on the floor on January 27 (*Congressional Record*, pp. H557-H583, H620-H749). After debate and amendment, H.R. 1 was passed by the Yeas and Nays, 244-188 (Roll no. 46).

The Senate received the bill on January 29. It was laid before the Senate by Unanimous Consent on February 2, when Sen. Harry Reid, the Majority Leader, proposed on behalf of Sen. Daniel K. Inouye, chair of the Senate Committee on Appropriations, to amend H.R. 1 by substituting the text of S. 336, the chamber's own version of the bill (*Congressional Record* S 1237-S1243, S1266-S1273). The Senate adopted several floor amendments before passing the bill February 10 by a vote of 61-37 (Record Vote No. 61).

The House disagreed with the amendment on the same day and agreed to a conference with the Senate by the Yeas and Nays (Roll no. 54, *Congressional Record* H1090-H1102). The

[2] For an extended discussion for the procedure by which bills are amended between the chambers and enacted into law, see CRS Report 98-812, *Amendments Between the Houses*, by Elizabeth Rybicki.

[3] A detailed description of the ping pong method of legislating is laid out in CRS Report RL34611, *Whither the Role of Conference Committees: An Analysis*, by Walter J. Oleszek.

Conference Committee filed its report (H.Rept. 111-16, *Congressional Record* H1307-H1516) on February 12. The House agreed to the conference report on February 13 by the Yeas and Nays, 246-183-1 (Roll no. 70, *Congressional Record* H1587). In the Senate, a point of order was raised against the emergency designation of the Act that was specified in the conference report.[4] A motion to waive was carried 60-38 (Record Vote No. 63), and the Senate agreed to the conference report by a Yea-Nay vote of 60-38 (Record Vote No. 64) on February 13 (*Congressional Record* S 2288-S2313). The passed bill was presented to the President on February 16, 2009 and signed the next day to become P.L. 111-5.

Title X of Division A of the versions of the ARRA passed by the House and Senate each included budget authority destined for military construction and veterans affairs appropriations accounts. The amounts recommended and enacted for these accounts are presented in **Table 3**.

Table 3. American Recovery and Reinvestment Act for 2009 (H.R. 1)

(budget authority in $ millions)

Account	House	Senate	Enacted
Department of Defense			
Military Construction, Army	$920.000	$637.875	$180.000
Military Construction, Navy and Marine Corps	$350.000	$990.092	$280.000
Military Construction, Air Force	$280.000	$871.332	$180.000
Military Construction, Defense-Wide	$3750.000	$118.560	$1,450.000
Military Construction, Army National Guard	$140.000	$150.000	$50.000
Military Construction, Air National Guard	$70.000	$110.000	$50.000
Military Construction, Army Reserve	$100.000	—	—
Military Construction, Navy Reserve	$30.000	—	—
Military Construction, Air Force Reserve	$60.000	—	—
Family Housing Construction, Army	—	$34.570	$34.507
Family Housing Operation and Maintenance, Army	—	$3.932	$3.932
Family Housing Construction, Air Force	—	$80.100	$80.100

[4] S.Con.Res. 21 of the 110th Congress, Sec. 201(a)(5)(A), relates to Pay-as-You-Go points of order in the Senate. The provision permits points of order to be raised in the Senate against consideration of certain measures of "direct spending or revenue legislation that would increase the on-budget deficit or cause an on-budget deficit" as measured against the "baseline surplus or deficit used for the most recently adopted concurrent resolution on the budget."

Account	House	Senate	Enacted
Family Housing Operation and Maintenance, Air Force	—	$16.461	$16.461
Homeowners Assistance Fund	—	$410.973	$555.000
Department of Defense Base Closure Account 1990	$300.000	—	—
Department of Defense Total	***$6000.000***	***$3423.895***	***$2,880.000***
Department of Veterans Affairs			
National Cemetery Administration	$50.000	$64.961	$50.000
Veterans Health Administration			
Medical Support and Compliance	—	$5.000	—
Medical Facilities	$950.000	$1370.459	$1,000.000
Departmental Administration			
General Operating Expenses	—	$1.125[a]	$150.000
Information Technology Systems	—	$195.000[a]	$50.000
Office of Inspector General	—	$4.400	$1.000
Construction, Major Projects	—	$1105.333	—
Construction, Minor Projects	—	$939.836	—
Grants for Construction of State Extended Care Facilities	—	$257.986	$150.000
Department of Veterans Affairs Total	***$1000.000***	***$3944.100***[a]	***$1,401.000***
Related Agency			
Department of Defense-Civil			
Cemeterial Expenses, Army			
Salary and Expenses	—	$60.300	—
Total, Department of Defense, Department of Veterans Affairs, and Related Agencies	***$7000.000***	***$7428.295***	***$4,281.000***

Source: American Recovery and Reinvestment Act for 2009 (H.R. 1) as enrolled by the House, amended in the Senate, and approved by both chambers and enacted by the President.

a. Does not include additional appropriations associated with economic recovery payments: $100,000 for information technology; $7.1 million for general operating expenses; and the increase in the compensation and pension account for the payments.

The House and Senate versions of H.R. 1 differed not only in the allocation of funds across broad appropriations accounts, but also in their specificity on the use of funds within individual appropriations accounts. In addition, the Senate amendment to H.R. 1 and the enacted bill addressed a number of non-appropriations issues. These will be discussed in detail in the sections that follow.

Economic Stimulus Funding for Department of Defense

Military Construction, Army

The House version of the bill would have appropriated $920 million, made available without time limitation for construction projects not otherwise authorized.[5] Of this sum, $600 million would have been designated for training and recruitment troop housing (barracks), $220 million for permanent party troop housing (barracks), and $100 million for on-post child development centers.

The Senate amendment would have appropriated $637.9 million to this account, available for obligation through Fiscal Year (FY) 2013, for which $84.1 million would be dedicated to child development centers, $481 million to the construction of warrior transition complexes, and $42.4 million for building and equipping medical and dental clinics.

The Act appropriated $180 million, available through FY2013 for projects in the United States not otherwise authorized, with $80 million devoted to child development centers and $100 million dedicated to warrior transition complexes.[6] In this and other military construction provisions, Congress instructed the Secretary of Defense to submit an expenditure plan for the funds provided to the Committees on Appropriations within 30 days of the bill's enactment.

Military Construction, Navy and Marine Corps

The House bill would have appropriated $350 million, again without time limitation on its obligation, of which $170 million would have built sailor and Marine housing and $180 million would have constructed child development centers.

The Senate version would have appropriated $990.1 million, available through FY2013. $172.8 million of this amount would have been dedicated to child development centers, $174.3 million would have constructed barracks, $125 million would have replaced health clinics, and $494.4 million would have been used for energy conservation and alternative energy projects.

[5] In stating that the funds are to be used only for projects not otherwise authorized, the bill would restrict their use to accelerating construction that has been planned but has not yet requested, or for additional construction not yet planned.

[6] For additional information regarding the care of members of the armed forces wounded in current operations, see CRS Report RL34371, *"Wounded Warrior" and Veterans Provisions in the FY2008 National Defense Authorization Act*, by Sarah A. Lister, Sidath Viranga Panangala, and Christine Scott.

The enacted version appropriated $280 million, available through FY2013 for projects in the United States not otherwise authorized. $100 million was dedicated to troop housing, $80 million was targeted at child development centers, and $100 million was to be used for energy conservation and alternative energy projects.

Military Construction, Air Force

The House would have provided $280 million without time limit for projects not otherwise authorized. $200 million of this would have been dedicated to airmen housing, and $80 million would have built child development centers.

The Senate amendment would have appropriated $871.3 million to the Air Force for construction obligations through FY2013. $18.1 million would have been be dedicated to child development centers, $612.2 million would have constructed Air Force dormitories (barracks), and $138.1 million would have constructed health clinics.

The enacted version appropriated $180 million available through FY2013 for projects within the United States not otherwise authorized. $100 million was designated for troop housing, and the remainder was devoted to child development centers.

Military Construction, Defense-Wide

The House bill would have appropriated $3,750 million ($3.8 billion) for the construction of hospitals and ambulatory surgery centers, without time limitation and in addition to those otherwise authorized by law.[7]

The Senate version would have provided $118.6 million to the account for use in the Energy Conservation Investment Program through FY2013.

The enacted version appropriated $1,450 million ($1.4 billion), available through FY2013 for projects in the United States not otherwise authorized. Of this, $1,330 million was dedicated to the construction of hospitals, and $120 million went to the Energy Conservation Investment Program.

Military Construction, Army National Guard

The House bill would have added $140 million, without time limitation, for projects not otherwise authorized.

The Senate bill would have appropriated $150 million, available through FY2013, for the construction of readiness centers not otherwise authorized.

[7] Military medical facilities are managed by the TRICARE Management Agency (TMA), a defense agency not associated with any military department. Funds for the construction of these facilities are usually drawn from the Defense-wide appropriations account.

The enacted version appropriated $50 million, available through FY2013, for projects not otherwise authorized. The Act directed the Secretary of Defense to consult with the Director of the Army National Guard before submitting the required expenditure plan.

Military Construction, Air National Guard

The House bill would have appropriated $70 million without time limit for construction not otherwise authorized.

The Senate bill would have provided $110 million, available through FY2013 for projects not otherwise authorized.

The enacted version appropriated $50 million, available through FY2013, for construction projects not otherwise authorized. The Act directed the Secretary of Defense to consult with the Director of the Air National Guard before submitting the required expenditure plan.

Military Construction, Army Reserve, Military Construction, Navy Reserve, and Military Construction, Air Force Reserve

The House version of H.R. 1 would have appropriated $100 million, $30 million, and $60 million, respectively, to these accounts, all without time limitation, for the construction of projects not otherwise authorized.

The Senate bill had no such provision.

The enacted version had no such provision.

Family Housing Construction and Family Housing Operation and Maintenance Accounts

The House bill contained no such appropriations.

The Senate amendment would have provided $34.6 million to the Army and $80.1 million to the Air Force for the construction military family housing is not otherwise authorized. These funds would have been available through FY2013. It would have also added $3.9 million to Army accounts and $16.5 million to Air Force accounts for the operation and maintenance of military family housing and minor construction in the United States through FY2013.

The enacted version provided $34.5 million to the Army Family Housing Construction account, but otherwise appropriated sums identical to those the Senate amendment.

Homeowners Assistance Fund

The House bill did not address the Homeowners Assistance Fund (HAF).

The Senate bill would have appropriated $411 million to the Fund to remain available until expended.

The enacted version appropriated $555 million to the Fund, available until expended, and required the Secretary of Defense to report quarterly on the expenditure of HAF funds made available under any provision of law.

The Homeowners Assistance Program [HAP] Fund provides funds to assist eligible military personnel and civilian federal employee homeowners who sustain a loss on the sale of their primary residence due to a declining residential real estate market attributable to the closure or realignment of a military installation. There have been five so-called Base Realignment and Closure (BRAC) rounds, in 1988, 1991, 1993,1995, and 2005.

Program expenses include payments to homeowners for losses on private sales; cost of judicial foreclosure; property acquisition by liquidating and/or assuming outstanding mortgages; partial payment of homeowners' lost equity on government acquisitions; retirement of debt after sale of properties when the government assumes mortgages; and administrative expenses. It was created by Section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 and is codified as 42 U.S.C. §3374.

This assistance has been offered during every BRAC round. Nevertheless, the eligibility criteria are restrictive and include a requirement that the Secretary of Defense determine that a sale was forced where "there is no present market for the sale of such property upon reasonable terms and conditions."[8] Section 1001 of the Senate amendment would have temporarily expanded eligibility by removing the need for the Secretary to make such a finding for properties were purchased before July 1, 2006 and were being sold pursuant to a base closing or realignment in the 2005 BRAC round. This expansion would have applied to properties sold before September 12, 2012 or some earlier date designated by the Secretary.

Another clause in the bill would have permanently expanded eligibility for DOD acquisition or loss reimbursement upon the sale of or foreclosure on the primary residences of certain wounded, injured, or ill members of the Armed Forces undergoing a medically mandated transition to civilian life or similarly afflicted civilian employees of the Department of Defense or the United States Coast Guard, or their surviving spouses.

The Senate amendment would also have extended a temporary eligibility for such assistance to certain members of the Armed Forces permanently reassigned to distant duty stations during the specified mortgage crisis, defined in the bill as extending from February 1, 2006 through September 30, 2012, or earlier if so determined by the Secretary of Defense.

All of these expansions and extensions were included within the enacted Act.

Economic Stimulus Recovery Zones

Within Subtitle E of Title I of Division B of H.R. 1, Section 1401(a) of the ARRA allowed the issuer of certain financial instruments to designate areas "economically distressed by reason of the closure or realignment of a military installations pursuant to the Defense Base Closure and Realignment Act of 1990" as "recovery zones." Such zones were made eligible for the issuance of Recovery Zone Economic Development Bonds and Recovery Zone Facility Bonds that qualify for certain special tax considerations.

[8] 42 U.S.C. § 3374(a)(3).

Economic Stimulus Funding for Department of Veterans Affairs

H.R. 1 as passed by the House provides a total of $1 billion for the VA, while the Senate amendment (S.Amdt. 98) provides a total of $3.9 billion for the Department (see **Table 3**). The $1 billion provided under H.R. 1 would fund non-recurring maintenance and energy conservation projects in VA medical facilities and monument and memorial repairs in VA national cemeteries. Of the $1 billion provided in the Housed-passed measure, $950 million is allocated to the medical facilities account and $50 million to the National Cemetery Administration (NCA). H.R. 1 as passed by the House does not specify which VA medical centers or national cemeteries would receive funding; however, the bill language calls for an expenditure plan from the VA within 30 days of enactment.

Of the total $3.9 billion provided under the Senate amendment $5 million would be for the medical support and compliance account and would be used for energy conservation initiatives in throughout the VA health care system. Moreover the Senate amendment provides approximately $1.4 billion for the non-recurring maintenance projects in VA medical centers, and $64.7 million for NCA for monument and memorial repairs. Unlike H.R. 1, the Senate amendment provides funding for the following accounts: general operating expenses, information technology, Office of the Inspector General (OIG), construction major and construction minor accounts as well as for grants for construction of state extended care facilities (see **Table 3** for specific amounts for each of these accounts). In total the Senate amendment provides $2.9 billion above the House-passed version of H.R. 1.

Filipino Veterans

The Senate amendment (S.Amdt. 98) includes an administrative provision to provide a one-time payment to Filipino veterans who served in the Commonwealth Army of the Philippines, Recognized Guerrilla Forces, and New Philippine Scouts. The payment would be $15,000 for U.S. citizens and $9,000 for non-U.S citizens. Payments would be made from the Filipino Veterans Equity Compensation Fund and are subject to funds being made available (appropriated). P.L. 110-329 appropriated $198 million for the Filipino Veterans Equity Compensation Fund. The provision in S.Amdt. 98 is similar to H.R. 6897 that was passed by the House on September 23, 2008.[9]

Economic Recovery Payments

The ARRA contained a provision to make one-time payments, called economic recovery payments, of $250 to certain beneficiaries of Social Security, Supplemental Security Income, Railroad Retirement, and certain VA programs (disability compensation, pension, dependency and indemnity compensation, and special payments to disabled children of certain veterans). Individuals who are beneficiaries or more than one of these programs will only receive one payment. For appropriation purposes, each agency (Social Security Administration, Railroad Retirement Board, and the VA) has funds appropriated necessary to make the payments associated with their beneficiaries. For the VA, these funds are to be appropriated to the compensation and pension account. In addition, the VA is appropriated $100,000 for the

[9] For further information see CRS Report RL33876, *Overview of Filipino Veterans' Benefits*, by Christine Scott, Sidath Viranga Panangala, and Carol D. Davis

information technology account, and $7.1 million for the general operating expense account for administrative costs to provide the one-time economic recovery payments. **Table 3** does not reflect the additional appropriations associated with the economic recovery payments.

The remainder of this section discusses the regular FY2009 appropriations enacted on September 30, 2008, as Division E of the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009 (H.R. 2638, P.L. 110-329).

Regular Fiscal Year 2009 Appropriations

The President submitted his FY2009 appropriations request to Congress on February 4, 2008. The House Committee on Appropriations Subcommittee on Military Construction, Veterans Affairs, and Related Agencies, chaired by Representative Chet Edwards (17th Congressional District of Texas), began its series of hearings on February 14 by addressing requested appropriations for the Department of Veterans Affairs (DVA). Subsequent hearings focused on the small agencies funded by the appropriation, the DVA's Office of Inspector General, veterans' medical care, military construction for the Departments of the Army, Navy, Air Force, and Defense, the Central, European, and Pacific combatant commands, and DVA's use of information technology. House subcommittee hearings ended on April 10 with the European Command presentation.[10]

The Senate subcommittee, chaired by Senator Tim Johnson (South Dakota), held two hearings. The first, concerned with the DVA request, convened on April 10. The second, on military construction, took place on April 24, 2008.

The House subcommittee marked its bill on June 12, adopting the mark by voice vote. The full committee mark took place on June 24, 2008, and was also adopted by voice vote. Representative Chet Edwards, subcommittee chair, introduced the bill (H.R. 6599, H.Rept. 110-775) on July 24, 2008 (*Congressional Record*, p. H7163), when it was placed on the Union Calendar (Calendar No. 494).

The House Rules Committee reported H.Res. 1384, its rule on consideration of H.R. 6599, on the evening of Tuesday, July 29, which allowed both one hour of general debate and amendment of the bill.[11] The House passed H.Res. 1384 on July 31.

The House resolved itself into the Committee of the Whole, with Representative Earl Pomeroy (ND/AL) acting as Chair, to debate H.R. 6599. Representative Rob Bishop (UT/01) offered an amendment to insert into the bill a new Division B, the "American Energy Act."[12] Mr. Edwards (TX) raised a point of order under House Rule XXI, asserting that the amendment would constitute legislation in an appropriations bill. The Chair sustained the point of order. Debate continued until 1:06 am on the morning of August 1 with the Committee of the Whole debating amendments and adopting a number of them.[13]

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[10] The Related Agencies funded by this appropriation include the American Battlefield Monuments Commission, the U.S. Court of Appeals for Veterans Claims, Arlington National Cemetery and the Soldiers' and Airmen's Home National Cemetery, and the Armed Forced Retirement Home.

[11] The rule permitted only those amendments that had been printed in the *Congressional Record* on or before July 30, 2008, save those pro forma amendments offered for the purposes of floor debate.

[12] H.Amdt. 1150, numbered 24 as printed in the *Congressional Record*, 8/1/2008, pp. H7724-H7742.

[13] Amendments adopted during the July 31-August 1 debate: $7 million of appropriated funds for installing alternative (continued...)

Debate continued later in the morning of August 1 when the Committee of the Whole again took up H.R. 6599 as unfinished business. Several additional amendments were considered, with one being adopted, before the House rose from the Committee of the Whole at 10:13 am to report the bill.[14]

After the House adopted the amended bill, Representative Jerry Lewis (CA/41) moved to recommit the bill to the committee with instructions to insert a section enacting H.R. 6566, the American Energy Act. Mr. Edwards (TX) raised a point of order against the motion, stating that the motion to recommit constituted legislation in an appropriations bill. The point of order was sustained by the Chair. Representative John E. Peterson (PA/05) appealed the ruling, and Mr. Edwards moved to table the motion to appeal. The House agreed to table the motion to appeal by recorded vote, 230-184 (Roll no. 562). The House passed H.R. 6599 on August 1, 2008, by the yeas and nays, 409-4 (Roll no. 563).[15]

The Senate subcommittee polled out its version of the appropriations bill. The full committee ordered the bill to be reported out favorably without amendment on July 17 by a vote of 29-0. Senator Tim Johnson, subcommittee chair, introduced the measure (S. 3301, S.Rept. 110-428) on July 22 (*Congressional Record*, p. S7030), when it was placed on the Senate Legislative Calendar under General Orders (Calendar No. 892).

Early press accounts suggested that a number of appropriations bills, this included, could be held until the 111th Congress convenes in January 2009.[16] Nevertheless, a version of the bill was incorporated on September 24, 2008, into Division E of an amendment to the Senate amendment of H.R. 2638, the Department of Homeland Security Appropriations Act, 2008, that was subsequently retitled the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009. The House agreed to the amendment by the yeas and nays, 370-58-1 (Roll no. 632) on September 24, 2008 (*Congressional Record*, pp. H9231-H9305). The Senate considered the House-amended bill on Friday, September 26, and passed the measure on Saturday, September 27 by yea-nay vote, 78-12 (Record Vote Number 208, *Congressional Record*, p. S9965), clearing it for the White House. The President signed the bill into law (P.L. 110-329) on September 30, 2008.

(...continued)

fueling stations at 35 medical facility campuses (Rep. Steve Buyer, IN/04); prohibition of use of funds to enforce 42 U.S.C. §17142, which prohibits federal procurement of alternative of synthetic fuels unless their life cycle greenhouse gas emissions would be less than those produced by conventional fuels (Rep. Jeb Hensarling, TX/05); prohibition of use of funds to enforce Sec. 2703 of P.L. 109-234 (Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006), which directed the Secretary of Veterans Affairs to clean up and transfer all Department land parcels in Gulfport, MS, to the city (Rep. Gene Taylor, MS/04); to prohibit use of funds for a project or program named for an individual then serving as a Member, Delegate, Resident Commissioner, or Senator of the U.S. Congress (Rep. Michael T. McCaul, TX/10); prohibition use of funds during FY2009 to carry out 38 U.S.C. §111(c)(5), which directs the Secretary of Veterans Affairs to adjust retroactively the dollar amounts deducted from allowances paid to veterans for beneficiary (rehabilitation, counseling, treatment, care, etc.) travel when the basic rate is changed (Rep. Bart Stupak, MI/01); prohibition of the use of funds to modify standards applied to veteran special monthly pension entitlement determinations (Rep. Zach Wamp, TN/03); and prohibition of use of funds to enforce Sec. 3 of Veterans Health Administration Directive 2008-025, *Voting Assistance for VA Patients*, which cites the Hatch Act (5 U.S.C. §§ 7321-7326) and potential facility disruptions in banning voter registration drives at VA medical facilities (Rep. Christopher S. Murphy, CT/05).

[14] The adopted amendment, proposed by Rep. Phil Gingrey (GA/11) would prohibit the use of funds to take private property for public use without just compensation.

[15] See *Congressional Record*, pp. H7793-H7794 of August 1, 2008.

[16] Manu Raju, "Approps Bills May Wait," *The Hill*, July 2, 2008, p. 1.

Appropriations Subcommittee Jurisdiction Realignment, 110th Congress, 1st Session

With the opening of the 110th Congress, the House and Senate brought the responsibilities of their appropriations subcommittees more closely into alignment. On the House side, this resulted in a new alignment of jurisdictions and the renaming of several subcommittees.

As a result, non-construction quality-of-life defense appropriations that had been considered in the House version of this appropriations bill during the 109th Congress, including Facilities Sustainment, Restoration, and Modernization, Basic Allowance for Housing, Environmental Restoration, and the Defense Health Program, were transferred to the jurisdiction of the House Committee on Appropriations Subcommittee on Defense. The former Subcommittee on Military Quality of Life, Veterans Affairs, and Related Agencies became the Subcommittee on Military Construction, Veterans Affairs, and Related Agencies, mirroring its counterpart in the Senate.

Appropriations for Fiscal Year 2008

Regular Appropriations

The Military Construction, Veterans Affairs and Related Agencies Appropriations Act (H.R. 2642) was introduced in the House on May 22, 2007. Passed by the House on June 15,it was extensively amended by the Senate and adopted on September 6. A conference convened in early November, when the bill was inserted into the Labor-HHS-Education appropriations bill (H.R. 3043) as its Division B. Division B was struck from H.R. 3043 on November 7, 2007, when a point of order was raised on the Senate floor.[17]

The appropriations bill was eventually bundled with others and added to the existing State Foreign Operations and Related Activities appropriations bill (H.R. 2764) as Division I of what then became the Consolidated Appropriations Act for Fiscal Year 2008. H.R. 2764 was enacted by the President on December 26, 2007, as P.L. 110-161. H.R. 2642 was later amended to become the Second FY2008 Supplemental Appropriations for Military Operations, International Affairs, and Other Purposes (see below).

FY2008 Emergency Supplemental Request for the Global War on Terror

In February 2007, coincident with its annual request for FY2008 appropriations, DOD submitted a supplemental request for $141.7 billion dedicated primarily, but not exclusively, to funding continued military operations in Iraq and Afghanistan. Additional requests transmitted to Congress in July and October 2007 brought total supplemental funding to $189.3 billion.[18]

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[17] Federal funding through the first several months of FY2008 was sustained by a series of continuing resolutions. For more detailed discussion of the legislative history of FY2008 appropriations, see CRS Report RL34038, *Military Construction, Veterans Affairs, and Related Agencies: FY2008 Appropriations*, by Daniel H. Else, Christine Scott, and Sidath Viranga Panangala.

[18] For further information, see CRS Report RL34278, *FY2008 Supplemental Appropriations for Global War on Terror Military Operations, International Affairs, and Other Purposes*, by Stephen Daggett et al.

Some construction was covered by these funds. These included new or upgraded facilities in direct support of military units deployed in Kygyzstan, Afghanistan, Iraq, Kuwait, and Qatar. Additional construction funds were dedicated to building a new headquarters in Djibouti, Africa, and facilities at a number of installations across the United States. Funding for the realignment of Walter Reed Army Medical Center in the District of Columbia, part of the implementation of the 2005 Base Realignment and Closure (BRAC) round, and an addition to the Burn Rehabilitation Unit at the Brooke Army Medical Center, Ft. Sam Houston, Texas, was also part of the supplemental request.

Second FY2008 Supplemental Appropriations for Military Operations, International Affairs, and Other Purposes

H.R. 2642, the Military Construction, Veterans Affairs, and Related Agencies Appropriations Act, was reintroduced to the House in mid-May 2008 and reconstituted as a second supplemental appropriation for FY2008. After debate and amendment by both chambers, the supplemental appropriation was presented to the President on June 27, 2008, and signed into law on June 30 as P.L. 110-252.[19]

The act provides additional funds for a number of accounts related to military construction and veterans' affairs, as delineated in **Table 4**.[20]

Table 4. Second FY2008 Supplemental (P.L. 110-252)

(budget authority in thousands of $)

Account	Request	Enacted
Military Construction, Army	1,486,100	1,108,200
Military Construction, Army (barracks improvement)		200,000
Military Construction, Navy and Marine Corps	360,257	355,907
Military Construction, Air Force	409,627	399,627
Military Construction, Defense-Wide	27,600	890,921
Family Housing Construction, Navy and Marine Corps	11,766	11,766
Base Realignment and Closure (BRAC) 2005	1,202,886	1,278,886
Total, Military Construction	**3,498,236**	**4,245,307**
General Administration Expenses	100,000	100,000
Information Technology Systems	20,000	20,000
Construction	396,377	396,377
Total, Veterans Affairs	**516,377**	**516,377**

[19] For additional information, see CRS Report RL34451, *FY2008 Spring Supplemental Appropriations and FY2009 Bridge Appropriations for Military Operations, International Affairs, and Other Purposes (P.L. 110-252)*, by Stephen Daggett et al.

[20] Amounts are drawn from the legislation. Most of these funds may be obligated through September 30, 2009 (i.e., throughout FY2009). Some construction funding remains available through September 30, 2012, while the remainder is so-called "no year" dollars, which are available until expended.

Executive Order 13457

Congress typically funds this act by appropriating directly to broadly defined appropriations accounts, such as *Military Construction—Army* or *Family Housing—Air Force*. These appropriations have typically been stated within the statutory language of the act itself. Nevertheless, within the budget documentation that the President submits to Congress each year are hundreds of detailed justifications for individual construction projects at specified locations for stated purposes in established funding amounts. The appropriations and authorization committees consider each of these as individual requests and indicate their approval, disapproval, or additions to the project lists in the explanatory statements reported to their respective chambers. While it is generally recognized by legal experts that statutory language (provisions stated in the body of legislation passed by Congress and enacted by the President) carries the full weight of law, the legal standing of statements contained within what is generally considered supporting language, such as explanatory statements written into reports to the chambers by members of committees, is less clear.

On January 29, 2008, President George W. Bush issued Executive Order (E.O.) 13457, titled "Protecting American Taxpayers From Government Spending on Wasteful Earmarks." In that E.O., the President stated, in part, that:

> For appropriations laws and other legislation enacted after the date of this order, executive agencies should not commit, obligate, or expend funds on the basis of earmarks included in any non-statutory source, including requests in reports of committees of the Congress or other congressional documents, or communications from or on behalf of Members of Congress, or any other non-statutory source, except when required by law or when an agency has itself determined a project, program, activity, grant, or other transaction to have merit under statutory criteria or other merit-based decisionmaking.[21]

The impact of E.O. 13457 on appropriation or implementation practices of either the executive or the legislative branches is unclear. For example, the order states that "executive agencies *should* [emphasis added] not commit, obligate, or expend funds ..." under certain circumstances. In law, "should" is interpreted as non-binding guidance to those to whom it is addressed. However, in a subsequent section of the E.O., the President directs that "the head of each agency *shall* [emphasis added] take all necessary steps ..." to implement the policy according to certain criteria that he then lays out. It should be noted that "shall" is a much stronger, directive term. The E.O. applies only to appropriations enacted after January 29, 2008, and will therefore not affect any existing or prior-year appropriation.

The E.O. does not appear to bar the implementation of congressionally directed funding in cases where spending is "required by law or when an agency has itself determined a project, program, activity, grant, or other transaction to have merit under statutory criteria or other merit-based decisionmaking." Examples of such a situation have existed where particular construction projects have been directed in the text of previously enacted authorization acts. The President's

[21] The President defines "earmark" as "funds provided by the Congress for projects, programs, or grants where the purported congressional direction (whether in statutory text, report language, or other communication) circumvents otherwise applicable merit-based or competitive allocation processes, or specifies the location or recipient, or otherwise curtails the ability of the executive branch to manage its statutory and constitutional responsibilities pertaining to the funds allocation process." The full text of E.O. 13457 can be found online at http://www.whitehouse.gov/news/releases/2008/01/20080129-5.html.

order also allows agency heads to "consider the views of a House, committee, Member, officer, or staff of the Congress with respect to commitments, obligations, or expenditures to carry out any earmark" when "such views are in writing...."

In addition, the definition of an "earmark" written into the E.O. may reduce somewhat the clarity of exactly what spending is to be avoided. That definition states that earmarks are "purported congressional direction (*whether in statutory text*, report language, or other communication) [that] circumvents otherwise applicable merit-based or competitive allocation processes, or specifies the location or recipient" (emphasis added).[22] While much of the E.O. stresses the necessity of adhering to the letter of the law, this definition could be interpreted as preventing an agency from observing some statutory text.

More generally, the E.O. may raise a number of other questions regarding future expenditure of appropriated funds. Two examples are suggested below.

1. There are instances where a construction project is not stated within the statutory text of the law in question, but rather is referenced in the text of another. An example might be a statutory requirement for the Department of Veterans Affairs to construct a number of cemeteries for the use of veterans at specified locations for which appropriations are not provided until a number of years later.[23] Would the E.O. bar the initiation of construction until such a statutory link is found and proven to unambiguously cover each project?
2. The E.O. grants agency heads the authority to accept congressionally directed funding when a project has "merit under statutory criteria or other merit-based decisionmaking," or when considering "the views of a House, committee, Member, officer, or staff of the Congress ... when such views are in writing...." Do these provisions constitute a broad discretion on the part of agency heads to accept congressional guidance on spending?

In drafting its version of the FY2009 appropriations bill, the House committee clarified the status of congressionally directed spending within the context of the Executive Order by referencing the list of construction projects within the statute. For each appropriation account for which specific construction projects are identified in the committee report, the proposed legislation states, "That the amount appropriated in this paragraph shall be for the projects and activities, and in the amounts, specified under the headings ... in the table entitled ... in the report of the Committee on Appropriations of the House of Representatives to accompany this bill."[24]

[22] Legal interpretation in this section has been assisted by CRS Legislative Attorney R. Chuck Mason.

[23] Other instances where text outside of an appropriations act may be considered as legally binding can occur when Congress incorporates language such as "shall be effective as if enacted by law," or "in accordance with" into statute.

[24] In the FY2009 House bill, the referenced accounts include Military Construction, Army; Military Construction, Navy; Military Construction, Air Force; Military Construction, Defense-Wide; Military Construction, Army National Guard; Military Construction, Air National Guard; Military Construction, Army Reserve; Military Construction, Navy Reserve; Military Construction, Air Force Reserve; Family Housing Construction, Army; Family Housing Construction, Navy and Marine Corps; Family Housing Construction, Air Force; and Chemical Demilitarization Construction, Defense-Wide.

Title I: Department of Defense

Military Construction

Military construction accounts provide funds for new construction, construction improvements, planning and design, and host nation support of active and reserve military forces and Department of Defense agencies. The *North Atlantic Treaty Organization Security Investment Program* (NSIP) is the U.S. contribution to defray the costs of construction (airfields, fuel pipelines, military headquarters, etc.) needed to support major NATO commands. *Family housing* accounts fund new construction, construction improvements, federal government costs for family housing privatization, maintenance and repair, furnishings, management, services, utilities, and other expenses incurred in providing suitable accommodation for military personnel and their families where needed.

The *DOD Housing Improvement Fund* is the vehicle by which funds, both directly appropriated and transferred from other accounts, support military housing privatization. The *Homeowners Assistance Fund* provides relief to federal personnel stationed at or near an installation scheduled for closure or realignment who are unable to sell their homes. The *Chemical Demilitarization Construction, Defense-Wide*, account provides for the design and construction of disposal facilities required for the destruction of chemical weapons stockpiles. The *Base Realignment and Closure Account 1990* funds the remaining environmental remediation requirements (including the disposal of unexploded ordnance) arising from the first four base realignment and closure (BRAC) rounds (1988, 1991, 1993, and 1995). The *Base Realignment and Closure Account 2005* provides funding for the military construction, relocation, and environmental requirements of the implementation of both the 2005 BRAC round and the DOD Integrated Global Presence and Basing Strategy/Global Defense Posture Realignment (military construction only).

Key Budget Issues

Several issues regarding military construction funding may be of interest to some Members in their consideration of the FY2009 appropriation request. Funding of the various accounts included under Title I (Department of Defense) is listed in **Appendix A** to this report.

Construction Cost Inflation

Military construction appropriations legislation often permits budget authority obligations (the ability of agencies to obligate funding) to continue for as many as five years after the appropriation is enacted. The House committee noted that inflation and the cost of construction over such a lengthy period could significantly affect the accuracy of cost estimates submitted by DOD. The committee directed DOD to increase the accuracy of its inflation estimates and report on the baseline inflation rate used in the creation of its 2010 budget request, comparing it with similar calculations used by other agencies.

Neither the Senate committee nor the Continuing Appropriations versions of the report contain such language.

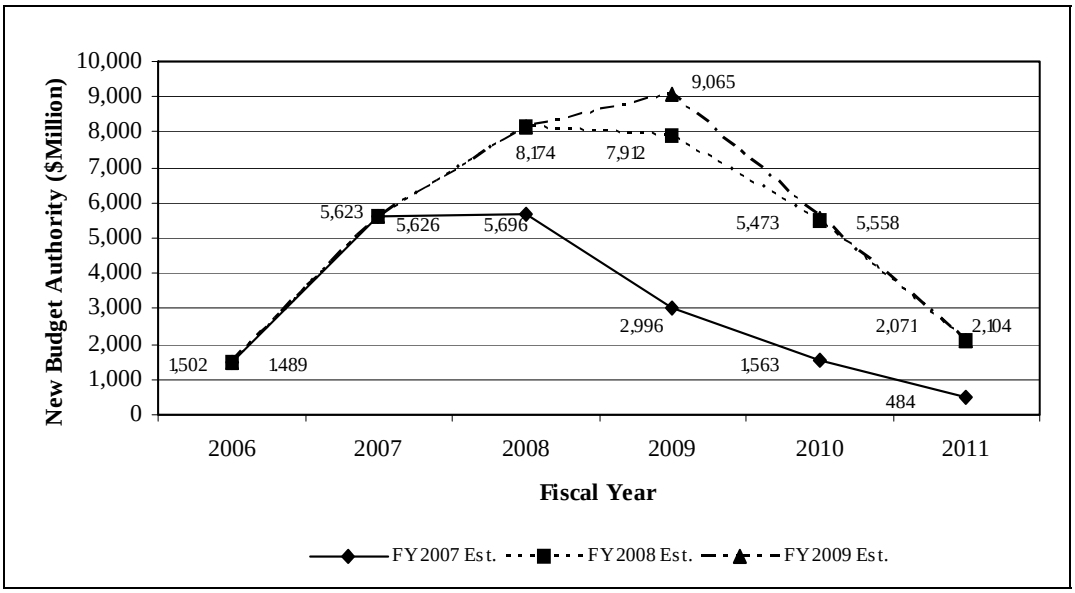
Base Realignment and Closure (BRAC)/Integrated Global Presence and Basing Strategy (IGPBS)/Global Defense Posture Realignment (GDPR)

Cost of Implementation

In its appropriations request for FY2007, DOD estimated that the total one-time implementation between 2006 and 2011 of the 2005 BRAC round (the realignment and closure of a number of military installations on United States territory) and the Integrated Global Presence and Basing Strategy (IGPBS, the redeployment of 60,000 - 70,000 troops and their families from overseas garrisons to bases within the United States) would cost $17.9 billion.[25]

Between the submission of that request in February 2006 and submission of the FY2008 BRAC funding request a year later, DOD advanced its planning for the execution of all military construction, movement of facilities, and relocation of personnel necessary to carry out the approved recommendations of the 2005 BRAC Commission. This revision caused the estimate of one-time implementation cost to rise to more than $30.7 billion, due principally to significantly higher implementation cost estimates for FY2008-FY2011. The same estimate made by DOD in February 2008 for the FY2009 appropriations request rose again, now totaling $32.0 billion. **Figure 1** compares DOD BRAC 2005 new budget authority requirement estimates made for FY2007, FY2008, and FY2009.[26]

Figure 1. New Budget Authority Estimates, BRAC 2005 Implementation



Source: DOD Budget Justification Documents for FY2007, FY2008, and FY2009

[25] The DOD Integrated Global Presence and Basing Strategy (IGPBS) has been renamed the Global Defense Posture Realignment (GDPR).

[26] Office of the Under Secretary of Defense (Comptroller), *National Defense Budget Estimates for FY 2008*, Department of Defense, March 2007. A thorough discussion of the defense budget, including definition of budget-related terms such as "new budget authority," can be found in CRS Report RL30002, *A Defense Budget Primer*, by Mary T. Tyszkiewicz and Stephen Daggett.

Although the BRAC 2005 account pays for buildings, moving, cleanup, and the like, the most significant factor driving implementation cost estimates for the peak years (originally FY2007 and FY2008, and later FY2008 and FY2009) is military construction. This wavelike cost profile is characteristic of BRAC rounds and is produced by the combined effects of the six-year statutory deadline for completing BRAC implementation and the need to commit funds for the execution of construction contracts at least two to three years before new building can be accepted and occupied.

BRAC 2005 appropriations requests had usually been funded fully by Congress, either through regular appropriations, omnibus appropriations, continuing resolutions, or emergency supplemental appropriations. The Senate committee's recommendation for FY2009, though, would have reduced the appropriation by $73.7 million, or 1% of the President's request, in order to increase funding for the construction of a missile defense radar site in Poland. The Continuing Appropriations bill (H.R. 2638) appropriated $8.7 billion to the BRAC 2005 account, a reduction of roughly $300 million from the President's request.

Modification of Annual BRAC Reporting Requirements

Under current statute, the Secretary of Defense is required to report annually to Congress schedules and descriptions of actions undertaken to implement the closures and realignments required by the 2005 BRAC round. Implementation of all BRAC closure and realignment actions is to be completed by September 15, 2011. Section 2711 of the House amendment to the NDAA (S. 3001) would end the reporting requirement, which is currently indefinite, with the DOD budget submission for FY2016.

Creation of an Independent Walter Reed Design Review Panel

The main campus of the Walter Reed Army Medical Center (WRAMC) in the District of Columbia is scheduled to close during the 2005 BRAC round, with the majority of its functions being transferred to other installations.[27] Section 2721 of the original House version of the Duncan Hunter NDAA (H.R. 5658) would have limited the construction of facilities needed to house those functions until the Secretary of Defense certified that 90% of construction design, an independent cost estimate, and a milestone schedule for the proposed realignment were complete.

Section 2721 of the amended NDAA (S. 3001) would create a panel of healthcare and facility design experts to review the plans for the new National Military Medical Center at Bethesda, Maryland, advise the Secretary of Defense on their adequacy, and recommend to the Secretary any changes needed to ensure that the resulting facilities are "world-class." Under the amended section, the Secretary would report to congressional defense committees on the recommendations, prepare a cost estimate for the closure of WRAMC, construction of replacement facilities, and relocation of functions, and create a milestone schedule for its execution. Planned construction activity would not be impeded.

[27] For detailed information on the realignment of Walter Reed Army Medical Center, see CRS Report RL34055, *Walter Reed Army Medical Center: Realignment Under BRAC 2005 and Options for Congress*, by Daniel H. Else and JoAnne O'Bryant.

Force Redeployment to United States Territory

The one-time implementation costs to carry out the President's redeployments to new garrisons on United States territory are included within the BRAC 2005 cost estimate. **Table 5** displays DOD cost during the six-year BRAC implementation. This shows that $495.3 million of the $9.1 billion (5.5%) of the FY2009 BRAC 2005 appropriation request is devoted to the IGPBS/GDPR redeployment.[28]

Table 5. IGPBS/GDPR One-Time Implementation Costs

(budget authority in millions of $)

BRAC 2005 Subaccount	FY2006	FY2007	FY2008	FY2009	FY2010	FY2011	Total
Military Construction	344.6	881.8	682.7	439.0	272.0	0.0	2,612.1
Environment	0.8	0.0	0.0	0.0	0.0	0.0	0.8
Ops. & Maint.	6.7	20.1	67.2	55.9	57.4	134.8	342.1
Other	0.0	14.3	26.2	8.4	16.5	8.8	74.1
Budget Request	352.0	916.1	776.1	495.3	345.9	143.6	3,029.0

Source: DOD FY2009 Army Budget Justification Documentation.

Note: The Department of the Army segregates funds into One-Time Implementation Costs, Recurring Costs, One-Time Savings, and Recurring Savings in calculating the net cost of IGPBS/GDPR. This table presents only One-Time Implementation Costs. Budget Request may not add precisely due to rounding.

Repealing the BRAC Commission Mechanism

Section 2711 of the original House version of the Duncan Hunter National Defense Authorization Act for FY2009 (H.R. 5658) would have repealed the President's authority to appoint an independent commission to recommend the closure or realignment of military installations.[29]

Under current law, the Secretary of Defense must submit to such a commission any recommendations he may have regarding the reduction of civilian employment at or the closure of military installations.[30] This panel, often referred to as the BRAC Commission, is empowered to accept, reject, or amend the Secretary's recommendations, or it may draft its own. Once the Commission has finalized its list of recommended actions and gained the President's approval, Congress may halt the implementation of these actions by passing a joint resolution of disapproval.[31] Otherwise, the Secretary of Defense is required to carry out the approved recommendations not later than six years from the date of presidential approval.

[28] IGPBS/GDPR is wholly funded by the Department of the Army BRAC 2005 account.

[29] The President's authority to appoint a commission or initiate a base closure round has expired. Any future closure round will require specific congressional authorization.

[30] 10 USC §2687 sets certain thresholds for the magnitude such a reduction before commission action is triggered.

[31] For additional information on the base closure process, see CRS Report RS22061, *Military Base Closures: The 2005 BRAC Commission*, by Daniel H. Else and David E. Lockwood; CRS Report RL33766, *Military Base Closures and Realignment: Status of the 2005 Implementation Plan*, by Kristine E. Blackwell; CRS Report RS22291, *Military Base Closures: Highlights of the 2005 BRAC Commission Report and Its Additional Proposed Legislation*, by Daniel H. Else (continued...)

Section 2711 would, if enacted, have eliminated the independent commission from the base closure process. Under the revised procedure, the Secretary of Defense would have submitted a list of recommended closures and realignments directly to President for his approval. The approved list would still have been subject to a congressional joint resolution of disapproval.

The provision was not included in the House amendment to the Senate amendment of the NDAA (S. 3001) and was therefore not enacted.

"Growing the Force"

DOD is planning to increase the end strength of the regular Army by 65,000 soldiers and Marine Corps by 27,000 Marines and the Army National Guard and Army Reserves by an additional 9,200 citizen-soldiers by 2012. This will require additional military construction to accommodate, train, and house these personnel and their families.

DOD requested more than $3.7 billion in FY2007 emergency supplemental and FY2008 military construction appropriations to support this increase. The Congressional Budget Office has estimated that the additional military construction cost between 2007 and 2013 of these soldiers and Marines will total $15.7 billion, with the bulk of the appropriations required during FY2008-FY2010.[32]

Overseas Initiatives

While redeploying a number of troops to the United States, DOD is also renegotiating the location and garrisoning of a number of its remaining overseas installations. These efforts are principally focused on the Federal Republic of Germany, Italy, the Republic of Korea, and Japan. In addition, a number of new, relatively austere, installations are being created in eastern Europe and in the Pacific, Central, and Southern Command areas. In Germany, U.S. forces are continuing to consolidate at existing installations in the south of the country, while the installation near Vicenza, Italy, is being expanded in anticipation of the deployment of a modular brigade. U.S. forces in the Republic of Korea are in the process of shifting from sites immediately along the Demilitarized Zone, at the frontier between that nation and the Democratic People's Republic of Korea (DPRK), and from a large headquarters garrison in the capital of Seoul to expanded facilities further to the south. While the bulk of construction cost will be borne by the Korean government, this initiative could require as much as $750 million in U.S. construction funding to complete.

Africa Command (AFRICOM)

The creation of Africa Command (AFRICOM) under U.S. Army Gen. William E. "Kip" Ward, currently scheduled to become operational on October 1, 2008, may soon require the construction

(...continued)

and David E. Lockwood; CRS Report RL30051, *Military Base Closures: Agreement on a 2005 Round*, by David E. Lockwood; or CRS Report 97-305, *Military Base Closures: A Historical Review from 1988 to 1995*, by David E. Lockwood and George H. Siehl.

[32] Letter from Peter R. Orszag, Director, Congressional Budget Office, to the Hon. Carl Levin, Chairman, Senate Committee on Armed Services, April 16, 2007, p. 8.

of a number of minimally manned or unmanned "cooperative security locations" at critical sites across the continent.[33] Both appropriations committees noted that the Administration's decision to stand up AFRICOM operations has not been accompanied by a clearly enunciated plan for the creation of facilities on the continent to receive U.S. military forces, nor as the location of AFRICOM'S permanent headquarters and announced.[34]

Guam

DOD and the Government of Japan have agreed to move approximately 8,000 Marines and 9,000 of their family members from bases on Okinawa to new facilities in the U.S. territory of Guam. The construction costs associated with this move have been estimated at $10 billion, and Japan has agreed to underwrite 60% of this expense. The Departments of the Army, Navy, and Air Force have separately initiated their own increase in presence on Guam, which is expected to add personnel and family members to this total over the next several years. These moves onto the island are expected to be complete by 2014 and will increase the military-associated population from 14,000 to approximately 39,000. Based on the most recent estimates of the territorial population of approximately 175,000, the post-2014 military community could represent as much as 22% of the island's inhabitants.[35]

DOD has estimated that approximately $3 billion will be needed for military construction on Guam. Nevertheless, as in the AFRICOM case, all appropriations committees noted that DOD has not yet finalized the construction needed to support the island's force buildup.

Section 2824 of the House-passed version of the Senate's NDAA (S. 3001) would establish a new Treasury account, the "Support for United States Relocation to Guam Account," to accept the Japanese contributions to the realignment of military installations and relocation of U.S. military personnel to Guam.[36] The section would also require the Secretary of Defense to report annually on each military construction project requested for the relocations to Guam from Japanese territory and as part of the general military buildup in the Territory.

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[33] DOD defines and ranks its overseas installations by a three-tier system. A Cooperative Security Location (CSL) is "A facility located outside the United States and U.S. territories with little or no permanent U.S. presence, maintained with periodic Service [*sic*], contractor, or host-nation support. Cooperative security locations provide contingency access, logistic support, and rotational use by operating forces and are a focal point for security cooperation activities." A Forward Operating Site (FOS) is more substantial, being "A scaleable location outside the United States and U.S. territories intended for rotational use by operating forces. Such expandable 'warm facilities' may be maintained with a limited U.S. military support presence and possibly pre-positioned equipment. Forward operating sites support rotational rather than permanently stationed forces and are a focus for bilateral and regional training." The Main Operating Base (MOB) is "A facility outside the United States and U.S. territories with permanently stationed operating forces and robust infrastructure. Main operating bases are characterized by command and control structures, enduring family support facilities, and strengthened force protection measures." Joint Publication 1-02, Department of Defense Dictionary of Military and Associated Terms, April 12, 2001 (as amended through May 30, 2008). This publication is available on the World Wide Web at http://www.dtic.mil/doctrine/jel/new_pubs/jp1_02.pdf.

[34] General Ward is currently the deputy commanding general of U.S. European Command (USEUCOM) and is functioning as AFRICOM's commander from USEUCOM headquarters in Stuttgart, Germany. Additional information on the new Africa Command can be found in CRS Report RL34003, *Africa Command: U.S. Strategic Interests and the Role of the U.S. Military in Africa*, by Lauren Ploch.

[35] If the same percentage were projected on the entire U.S. population of approximately 350 million, the U.S. military community would number 78 million. Actual active-duty military personnel and their families number less than 4 million.

[36] The law authorizing the acceptance of foreign contributions is found at 10 U.S.C. §2350k, "Relocation within Host Nation of Elements of Armed Forces Overseas."

Overseas Installation Management

The Government Accountability Office addressed DOD planning for overseas installations in a report completed in September 2007.[37] The report concluded that although DOD had updated its overseas master plans, which lay out projected infrastructure requirements at overseas military installations, the Department had not sufficiently incorporated into its calculations the "residual value" of property being returned to host nations for reuse.[38] GAO also noted that neither DOD nor the military departments (Army, Navy, and Air Force) had yet finalized the number or makeup of forces being transferred to Guam from Japan and the United States. This meant that the housing, training and operational requirements, and community impact of significant force relocation could not be estimated.[39]

Since FY2004, the Senate committee has required DOD to submit an annual master plan for its installations overseas. Citing the continuing military operations in Southwest Asia, troop relocations within and from Europe and Korea, and the creation of AFRICOM, the committee included an extension of the existing reporting requirement in the language of its report.

Other Issues

Brigade Transformation and Expansion of the Piñon Canyon, CO, Maneuver Training Area

During the mid-1980s, the Department of the Army acquired approximately 250,000 acres of land near Ft. Carson, CO, for use as a training site. Approximately half of the land was obtained through open purchase, with the remainder acquired through condemnation proceedings.[40]

As part of the Global Rebasing effort, roughly 10,000 soldiers will redeploy to Ft. Carson from garrisons currently located overseas.[41] In addition, the Army is in the process of transforming its fundamental combat organization from one based on the division (usually made up of three brigades) into one based on the "modular Brigade Combat Team" (BCT), which emphasizes tactics based on unit speed of movement and maneuverability. The Army has estimated that each BCT requires at least 95,000 acres of land for optimal training and has planned to base four such BCTs at Ft. Carson.

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[37] Government Accountability Office, *Defense Infrastructure: Overseas Master Plans are Improving, but DOD Needs to Provide Congress Additional Information about the Military Buildup on Guam* (GAO-07-1015), September 12, 1007.

[38] GAO stated that compensation received for the residual value of returned real property could affect overseas construction funding requirements.

[39] Guam's population is currently estimated at approximately 173, 400, or roughly 30% of that of the District of Columbia on land area of 212 sq. mi., or about one-eighth (13.7%) that of the State of Rhode Island. DOD reported that 2,828 active duty military personnel, predominantly Air Force, were stationed in the territory as of June 27, 2007. The movement of more than 17,000 military personnel and family members is therefore likely to have a significant impact on surrounding communities.

[40] Testimony offered by Assistant Secretary of the Army for Installations and Environment Keith Eastin to the Senate Committee on Appropriations Subcommittee on Military Construction and Veterans Affairs on May 9, 2006.

[41] The Department of Defense has reported that as of September 30, 2006, 14,026 military personnel were based at Ft. Carson. See *DOD Base Structure Report Fiscal Year 2007 Baseline*, pg. DOD-44.

This increase in training need led the Army to consider a significant expansion of the Piñon Canyon Maneuver Training Area. As of mid-2006, the Department of the Army expected to acquire an additional 418,000 acres.

The proposed move generated concerns among local landowners that public condemnation might again be employed to acquire properties for incorporation into the site. The question of whether eminent domain, or condemnation, was being considered by DOD was put to Philip Grone, the Deputy Undersecretary of Defense for Installations and Environment, by Senator Wayne Allard (CO) at a hearing of the Senate Committee on Appropriations Subcommittee on Military Construction and Veterans Affairs on March 22, 2007. Mr. Grone stated that the Department would "always prefer to work with willing sellers. But I would not desire to rule out any legally available tool."

Subsequently, the National Defense Authorization Act for FY2008 contained a provision that required the Secretary of the Army to conduct an analysis of the sufficiency of existing training facilities at Ft. Carson to support the current and future training needs of units currently stationed and planned to be stationed at the post and to report the results to Congress.[42] An amendment to the Consolidated Appropriations Act for FY2008, which funded military construction and DOD land acquisition, stipulated that, "None of the funds appropriated or otherwise made available in this Act may be used for any action that is related to or promotes the expansion of the boundaries or size of the Pinon Canyon Maneuver Site, Colorado."[43] Identical language appears in Section 127 of the Military Construction and Veterans Affairs Appropriations Act, 2009, as passed by the House. The same Section 127 is retained in Division E of the Consolidated Appropriations Act (H.R. 2638).

In its report to Congress on Piñon Canyon, the Department of the Army has indicated that its current assessment of need for training land at Ft. Carson may not exceed an additional 100,000 acres.[44]

Extending the Use of Operation and Maintenance Funds for Overseas Construction

Section 2808 of the NDAA for 2004 (P.L. 108-136, 117 Stat. 1723) permitted the Secretary of Defense to use Operation and Maintenance funds for construction projects outside of the United States if the construction (1) was needed for urgent military operational requirements of a temporary nature; (2) was not located at a military installation where the U.S. was expected to have a long-term presence; (3) would not be used by the U.S. after operations ended; and (4) was the minimum needed to meet the temporary requirements.[45]

Both the original House and Senate bills would have extended this authority for an additional year, through FY2009. Section 2806 of the House-passed version of the Senate bill (S. 3001) would extend the authority through FY2009 but would restrict its use to U.S. Central Command

[42] See National Defense Authorization Act, 2008 (H.R. 4986, P.L. 110-181), Sec. 2831.

[43] Consolidated Appropriations Act, 2008 (H.R. 2764, P.L. 110-161), Division I, Sec. 409. The amendment was proposed by Rep. Marilyn N. Musgrave (CO/04).

[44] "Army Takes Public Comments on Pinon Canyon Report," Associated Press Newswires, 17:26, August 15, 2008.

[45] The original authorization was amended and extended beyond FY2004 by Sec. 2810 of P.L. 108-375, Sec. 2809 of P.L. 109-163, Sec. 2802 of P.L. 109-364, and Sec. 2801 of P.L. 110-181.

(USCENTCOM) and Africa Command (USAFRICOM) Areas of Responsibility in Central Asia and continental Africa. In addition, the bill would exempt construction in Afghanistan from the prohibition on the use of funds to support the long-term presence of U.S. military forces.

Military Housing Privatization

Since the mid-1990s, the Department of Defense has exercised a number of congressionally granted special authorizations to privatize military family housing at military installations. To date, approximately 87 housing projects have been initiated in which the title to family housing serving a number of installations has been transferred from DOD to private joint ventures under agreements to construct, maintain, and manage the sites for up to 50 years.[46]

During 2006 and 2007, American Eagle Communities, a major developer in family housing projects at several installations, found itself unable to raise the capital needed to continue construction and operation.[47] Although other contractors eventually assumed responsibility for completing the existing contracts, the Senate version of the NDAA (Section 2803) would have increased the responsibilities of the various Secretaries for project oversight and reporting to the Under Secretary of Defense (Installations and Environment) and would have set thresholds on the qualifications of contractors allowed to participate. Another provision in the Senate bill (Section 2805) would have required the Secretary of the Air Force to provide a cost-benefit analysis to Congress regarding the proposed dissolution of one of the affected joint ventures, Patrick Family Housing LLC at Patrick AFB, Florida, before taking any action. Section 2805 of the House-amended version of S. 3001 retains these provisions.

Leasing Military Housing to the Secretary of Defense

Both House and Senate versions of the NDAA would authorize the department Secretaries to lease housing on a military installation in the National Capital Region to the Secretary of Defense. Proposed by DOD, this move is characterized as a cost-effective alternative to the periodic installation, maintenance, and protection in private homes of the DOD communications equipment and security devices and detail of personnel needed by the Secretary of Defense in pursuit of his duties. The bills differ in their method of calculating the requisite rent to be paid by the Secretary.

The House-amended version of S. 3001 retains this provision in Section 2804 and would set the rent to be paid by the Secretary at 105% of the basic housing allowance paid to the current highest-ranking member of the military services, a general or admiral in the grade of 0-10 with family, assigned to the installation where the housing is located.[48]

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[46] For additional information on the Military Housing Privatization Initiative, see CRS Report RL31039, *Military Housing Privatization Initiative: Background and Issues*, by Daniel H. Else.

[47] Projects for privatized housing which American Eagle participated served AFB, Georgia, Little Rock AFB, Arkansas, Hanscom AFB, Massachusetts, and Patrick AFB, Florida, plus a number of Army and Navy installations.

[48] Housing allowance rates are set with and without family (dependents) for each installation and geographic area where military members are assigned to duty. For more information on this Basic Allowance for Housing (BAH), see CRS Report RL33446, *Military Pay and Benefits: Key Questions and Answers*, by Charles A. Henning.

Defense Access Road Program

23 U.S.C. 210 authorizes DOD to make appropriated funds "available, without regard to apportionment among the several States, for paying all or any part of the cost of the construction and maintenance" of certain roads, "bridges, tubes, and tunnels leading to military reservations, to defense industries and defense industry sites, and to the sources of raw materials" when designated by the Secretary of Defense as being "important to the national defense."[49] This authority, embodied in the Defense Access Road (DAR) Program, permits DOD to assess road improvement needs, request the necessary appropriation, and partner with the Office of Federal Lands Highway, Federal Highway Administration, in the Department of Transportation and the appropriate agency that would administer the construction project.

The current BRAC round and the Global Defense Posture Realignment are expected to substantially increase the military populations at a number of installations across the country. Some communities are anticipating significant strain to be imposed on the local transportation infrastructure serving these sites. The House version of the NDAA would amend the statute to require the Secretary of Defense to conduct a transportation "needs assessment" at installations where a significant transportation impact is anticipated. The Senate version contained no such legislative language, but the committee report singled out the program as an item of special interest and would have directed the Secretaries of Defense and Transportation to review the criteria by which an improvement project is deemed eligible for DAR funding and report their findings to Congress.

Section 2814 of the enacted version of S. 3001 retained the House language, amending 23 U.S.C. 210 to require transportation needs assessments and directed the Secretary of Defense to report to the relevant congressional committees any significant transportation impacts resulting from DOD activities since January 1, 2005.

Restricting the Use of NASJRB Willow Grove, Pennsylvania

Naval Air Station Joint Reserve Base (NASJRB) Willow Grove is located in Horsham, PA, a suburb of Philadelphia, and is scheduled to close as part of the 2005 BRAC round. Section 8115 of the Consolidated Appropriations Act, 2009 (H.R. 2638, P.L. 110-329) provides for all Department of the Navy property at the site to be transferred at no cost from the Secretary of the Navy to the Secretary of the Air Force as the Horsham Joint Interagency Installation and renamed "Pitcairn-Willow Grove Field." The Secretary of the Air Force will then transfer Pitcairn-Willow Grove Field and all excess Air Force property at the former NASJRB to the Commonwealth of Pennsylvania for use as the Horsham Joint Interagency Installation.

The section further provides that the property shall return to the Department of Defense should it cease being used as the Horsham Joint Interagency Installation. It may not be reconveyed by the Commonwealth.

[49] 23 U.S.C. 210(a).

Title II: Department of Veterans Affairs

Table 6. Department of Veterans Affairs Appropriations, FY2002-FY2008

(budget authority in billions of $)

	FY2002	FY2003	FY2004	FY2005	FY2006	FY2007	FY2008
VA	52.38	58.10	61.84	65.84	71.46	79.55	88.11

Source: Amounts shown are from reports of the Appropriations Committees accompanying the appropriations bills for the following years.

Agency Overview

The Department of Veterans Affairs (VA) administers directly, or in conjunction with other federal agencies, programs that provide benefits and other services to veterans and their spouses, dependents and beneficiaries. The VA has three primary organizations to provide these benefits: the Veterans Benefits Administration (VBA), the Veterans Health Administration (VHA), and the National Cemetery Administration (NCA). Benefits available to veterans include service-connected disability compensation; a pension for low-income veterans who are elderly or have a nonservice-connected disability; vocational rehabilitation for disabled veterans; medical care; life insurance; home loan guarantees; burial benefits; and educational and training benefits to help in the transition of active servicemembers to civilian life. As shown in **Table 6**, VA appropriations for benefits and services has increased from $52.38 billion in FY2002 to $88.11 billion in FY2008.

Table 7. Appropriations: Department of Veterans Affairs, FY2008-FY2009

(budget authority in billions of $)

Program	FY2008 Enacted	FY2009 Request	FY2009 House (H.R. 6559)	FY2009 Senate (S. 3301)	FY2009 Enacted (H.R. 2638)
Compensation and pensions	41.236	43.112	43.112	43.112	$43.112
Readjustment benefits	3.300	3.087	3.087	3.833[e]	3.833[e]
Insurance and indemnities	0.041	0.042	0.042	0.042	0.042
Housing programs (net, indefinite)[a]	-0.090	-0.243	-0.243	-0.243	-0.243
Housing programs administration	0.155	0.158	0.158	0.158	0.158
Total, Veterans Benefits Administration (VBA)	*44.643*	*46.155*	*46.155*	*46.901*	*46.901*
National Cemetery Administration	0.167	0.181	0.240	0.230	0.230
Contingent emergency (P.L. 110-161)	0.028				
Total, National Cemetery Administration (NCA)	*0.195*	*0.181*	*0.240*	*0.230*	*0.230*
Medical Services[b]	27.168	34.076	30.854	35.590	30.970

Program	FY2008 Enacted	FY2009 Request	FY2009 House (H.R. 6559)	FY2009 Senate (S. 3301)	FY2009 Enacted (H.R. 2638)
Contingent emergency (P.L. 110-161)	1.937				
Medical support and compliance	3.442	[b]	4.400	[b]	4.450
Contingent emergency (P.L. 110-161)	0.075				
Medical facilities	3.592	4.661	5.029	4.961	5.029
Contingent emergency (P.L. 110-161)	0.508				
Medical and prosthetic research	0.411	0.442	0.500	0.527	0.510
Contingent emergency (P.L. 110-161)	0.069				
Medical Care Collection Fund					
(Offsetting receipts)	-2.414	-1.879	-2.544	-2.544	-2.544
(Appropriations - indefinite)	2.414	1.879	2.544	2.544	2.544
Total, Veterans Health Administration (VHA)	*37.201*	*39.179*	*40.783*	*41.078*	*40.959*
Available to VHA (includes collections)c	*39.615*	*41.058*	*43.327*	*43.622*	*43.503*
General operating expenses[d]	1.472	1.700	1.802	1.779	1.802
Contingent emergency (P.L. 110-161)	0.233				
Information technology	1.859	2.442	2.492	2.471	2.489
Contingent emergency (P.L. 110-161)	0.127				
Inspector General	0.073	0.077	0.088	0.094	0.088
Contingent emergency (P.L. 110-161)	0.008				
Construction, major projects	0.727	0.582	0.923	1.218	0.923
Contingent emergency (P.L. 110-161)	0.738				
Construction, minor projects	0.233	0.329	0.991	0.729	0.742
Contingent emergency (P.L. 110-161)	0.397				
Grants for state extended care facilities	0.085	0.085	0.165	0.250	0.175
Contingent emergency (P.L. 110-161)	0.080				

Program	FY2008 Enacted	FY2009 Request	FY2009 House (H.R. 6559)	FY2009 Senate (S. 3301)	FY2009 Enacted (H.R. 2638)
Grants for state veterans cemeteries	0.032	0.032	0.045	0.042	0.042
Contingent emergency (P.L. 110-161)	0.008				
Total, Departmental Administration	*6.072*	*5.246*	*6.507*	*6.583*	*6.261*
Total, Department of Veterans Affairs	**88.112**	**90.761**	**93.685**	**94.793**	**94.351**[f]

Source: Table prepared by the Congressional Research Service based on reports of the House and Senate Appropriations Committees, various fiscal years.

a. This negative budget authority is the result of combining the loan subsidy payments estimated to be needed during FY2006 with the offsetting receipts expected to be collected.

b. The FY2009 request and *S. 3301* combine medical services and medical support and compliance.

c. Medical Care Collections Fund (MCCF) receipts are restored to the VHA as an indefinite budget authority equal to the revenue collected.

d. Does not reflect a transfer in the FY2008 omnibus of $6 million of general operating expenses to maintain funding for payments to state approving agencies at the FY2007 levels.

e. Includes funding for new education benefit provided in *P.L. 110-252*.

f. Does not include the $198 million appropriation provided in *H.R. 2638* (*P.L. 110-329*) for the Filipino Veterans Equity Compensation Fund that would be established by *H.R. 6897*, which passed the House on September 23, 2008.

Table 8. Mandatory and Discretionary Appropriations: Department of Veterans Affairs, FY2008-FY2009

(budget authority in billions of $)

	FY2008 Enacted	FY2009 Request	FY2009 House (*H.R. 6559*)	FY2009 Senate (*S. 3301*)	FY2009 Enacted (*H.R. 2638*)
Mandatory					
Benefits (VBA)	44.488	45.998	45.998	46.744	$46.744
Discretionary					
Medical (VHA)	37.201	39.179	40.783	41.078	40.959
National Cemetery Administration (NCA)	0.195	0.181	0.240	0.230	0.230
Departmental administration	6.072	5.246	6.507	6.583	6.261
Housing administration (VBA)	0.155	0.158	0.158	0.158	0.158
Total, discretionary	43.624	44.763	47.687	48.049	47.607

	FY2008 Enacted	FY2009 Request	FY2009 House (*H.R. 6559*)	FY2009 Senate (*S. 3301*)	FY2009 Enacted (*H.R. 2638*)
Total, Department of Veterans Affairs	**88.112**	**90.761**	**93.685**	**94.793**	**94.351**[a]
Percentages of Total					
Mandatory	50.5%	50.7%	49.1%	49.3%	49.5%
Discretionary	49.5%	49.3%	50.9%	50.7%	50.5%

Source: Table prepared by the Congressional Research Service based on reports of the House and Senate Appropriations Committees, various fiscal years.

a. Does not include the $198 million appropriation provided in H.R. 2638 (P.L. 110-329) for the Filipino Veterans Equity Compensation Fund that would be established by H.R. 6897, which passed the House on September 23, 2008.

Key Budget Issues

The FY2009 budget submitted by the Administration in February 2008 called for funding VA at a level of $90.8 billion for FY2009 (see **Table 8**). This would be an increase of $2.6 billion, or 3.0%, over the FY2008 appropriation (including the contingent emergency and supplemental funding).

One of the key issues for VA non-medical benefits has been the size of the disability claims workload and the average time (183 days in FY2007)[50] to process claims. The U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (P.L. 110-28) provided additional funding to the VA for resources to address the large number of pending claims and shorten processing times. P.L. 110-28 provided an additional $60.75 million for hiring and training of additional claims processing personnel, and $20.0 million for information technology to support claims processing.

The FY2008 Omnibus (P.L. 110-161) provided $124.2 million for the hiring of additional claims processors and $2.0 million for leasing office space for the new hires. Additional funds were also provided to the Board of Veterans Appeals ($3.7 million) and the Office of General Council ($3.2 million) for additional personnel to handle the increase in the number of appeals.

As shown in **Table 7**, H.R. 6559 provides $93.7 billion in FY2009 funding for the VA, an increase of $5.6 billion, or 6.3%, above the FY2008 appropriation (including the contingent emergency and supplemental funding). S. 3301 provides $94.8 billion in FY2009 funding for the VA, an increase of $6.7 billion, or 7.6%. H.R. 2638 (P.L. 110-329) provides $94.4 billion in FY2009 funding for the VA, an increase of $6.2 billion or 7.1% over the FY2008 enacted level. All of the FY2009 funding bills also provide a large increase in FY2009 funding relative to the FY2008 appropriation for several programs including medical support; medical facilities; and information technology.

As shown in **Table 8**, there is an almost equal split between mandatory and discretionary funding for the VA. In the FY2008 appropriation, mandatory funding was only slightly above

[50] Department of Veterans Affairs, *FY2008 Budget Submission, Summary - Volume 3*, pg. 4B-6.

discretionary funding. For H.R. 6559, S. 3301, and H.R. 2638 (P.L. 110-329) discretionary funding is slightly above mandatory funding.

Medical Care

The Veterans Health Administration (VHA) is a direct service provider of primary care, specialized care, and related medical and social support services to veterans through an integrated health care system. In FY2008, VHA operated 153 medical centers, 135 nursing homes, 795 ambulatory care and community based outpatient clinics (CBOCs),[51] and 232 Readjustment Counseling Centers (Vet Centers).[52] VHA also pays for care provided to veterans by independent providers and practitioners on a fee basis under certain circumstances. Inpatient and outpatient care is provided in the private sector to eligible dependents of veterans under the Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA).[53] In addition, VHA provides grants for construction of state-owned nursing homes and domiciliary facilities, and collaborates with the Department of Defense (DOD) in sharing health care resources and services.

The total amount requested by the Administration for VHA for FY2009 was $39.2 billion, a $2.0 billion increase in funding compared to the FY2008 enacted amount. The total amount of funding that would have been available for VHA under the President's budget proposal for FY2009, including third-party collections, was approximately $41.1 billion. For FY2009, the Administration requested $34.1 billion for medical services, an approximately $5.0 billion, or17%, increase in funding over the FY2008 enacted amount. However, it should be noted that this amount included funding for the medical administration account which the Administration proposed to consolidate with the medical services account. The President's budget also requested $4.6 billion for medical facilities, and $442 million for medical and prosthetic research.

As in FY2003, FY2004, FY2005, FY2006, FY2007, and FY2008 the Administration included several cost sharing proposals. The first proposal was the tiered annual enrollment fee for all enrolled Priority Group 7 and Priority Group 8 veterans, which was structured to charge $250 for veterans with family incomes from $50,000 to $74,999; $500 for those with family incomes from $75,000 to $99,999; and $750 for those with family incomes equal to or greater than $100,000. According to the VA, this proposal would have increased government revenue by $129 million beginning in FY2010, and by $514 million over five years.

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[51] Data on the number of CBOCs differ from source to source. Some count clinics located at VA hospitals while others count only freestanding CBOCs. The number represented in this report excludes clinics located in VA hospitals. On June 26, 2008, VA announced that it would be establishing 44 new CBOCs in FY2008 and FY2009. The new CBOCs are to be located in: Marshall County, and Wiregrass, AL; Matanuska-Susitna Borough area, AK; Ozark, and White County, AR; East Bay-Alameda County area, CA; Summerfield, FL; Baldwin County, Coweta County, Glynn County, and Liberty County, GA; Miami County, and Morgan County, IN; Wapello County, IA; Lake Charles, Leesville, Natchitoches, St. Mary Parish, and Washington Parish, LA; Lewiston-Auburn area, ME; Douglas County, and Northwest Metro, MN; Franklin County, MO; Rio Rancho, NM; Robeson County, and Rutherford County, NC; Grand Forks County, ND; Gallia County, OH; Altus, Craig County, Enid, and Jay, OK; Giles County, Maury County, and McMinn County, TN; Katy, Lake Jackson, Richmond, Tomball, and El Paso County, TX; Augusta County, Emporia, and Wytheville, VA; and Greenbrier County, WV.

[52] New Vet Centers in 2008 are located in: Montgomery, AL; Fayetteville, AR; Modesto, CA; Grand Junction, CO; Fort Myers, Melbourne, and Gainesville, FL; Macon, GA; Manhattan, KS; Baton Rouge, LA; Cape Cod, MA; Saginaw and Escanaba, MI; Berlin, NH; Las Cruces, NM; Binghamton, Middletown, Nassau County and Watertown, NY; Toledo, OH; Du Bois, PA; Killeen, TX; and Everett, WA.

[53] For further information on CHAMPVA see CRS Report RS22483, *Health Care for Dependents and Survivors of Veterans*, by Sidath Viranga Panangala and Susan Janeczko.

The Administration also proposed increasing the pharmacy copayments from $8 to $15 for all enrolled Priority Group 7 and Priority Group 8 veterans, whenever they obtain medication from VA on an outpatient basis for the treatment of a nonservice-connected condition.[54] The Administration put forward this proposal in its FY2004, FY2005, FY2006, FY2007 and FY2008 budget requests as well, but did not receive any approval from Congress. At present, veterans in Priority Groups 2-8 pay $8 for a 30-day supply of medication, including over-the-counter medications. The VA estimated that this proposal would have increased government revenue by $334 million beginning in FY2009, and by $1.6 billion over five years.

Lastly, the Administration proposed to bill veterans directly for treatment associated with nonservice-connected conditions. Presently, VA uses third-party collections to satisfy veterans' first party debt; that is, if VA treats an insured veteran for a nonservice-connected disability, and the veteran is also determined by VA to have copayment responsibilities, VA will apply each dollar collected from the insurer to satisfy the veteran's copayment debt related to that treatment. The Administration proposed to eliminate this practice. According to the VA, this proposal would have increased government revenue by $44 million beginning in FY2009 and by $215 million over five years. The President's budget request for medical services did not reflect these legislative proposals.

Compared to previous budget proposals, the FY2009 budget proposals if implemented would have deposited all collections in the U.S. Treasury and not in the Medical Care Collections Fund (MCCF) as is the current practice with regard to collections.[55]

The House Appropriations Committee-passed version of the Military Construction and Veterans Affairs Appropriations bill for FY2009 provided $40.7 billion for the VHA for FY2009. This amount included $30.9 billion for medical services, $1.8 billion (6%) over the FY2008 enacted amount of $29.1 billion. The Committee-passed measure also included $4.4 billion for medical support and compliance (previously known as medical administration), $883 million (25%) above the FY2008 enacted amount of $3.5 billion; $5.0 billion for medical facilities, a 7.8% increase over the President's request of $4.7 billion; and $500 million for medical and prosthetic research, a 13.1% increase over the President's request of $442 million. The House-passed version of the Military Construction and Veterans Affairs Appropriations bill for FY2009 *did not* include any bill language authorizing fee increases as requested by the Administration's budget proposal for VHA for FY2009.

Of the amount recommended by the House Appropriations Committee for the medical services account, $3.8 billion was for specialty mental health care, $584 million was for the substance abuse program, $568 million was to increase the number of Priority 8 enrollment by 10 percent, and $100 million was to increase the mileage reimbursement rate from 28.5 cents a mile to 41.6 cents a mile.

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[54] The term "service-connected" means, with respect to disability, that such disability was incurred or aggravated in the line of duty in the active military, naval, or air service. VA determines whether veterans have service-connected disabilities, and for those with such disabilities, assigns ratings from 0 to 100% based on the severity of the disability. Percentages are assigned in increments of 10%.

[55] VA deposits into MCCF copayments collected from veterans obligated to make such payments for either medical services or inpatient pharmacy benefits for outpatient medication, and third-party insurance payments from service-connected veterans for nonservice-connected conditions. These collected funds do not have to be spent in any particular fiscal year and are available until expended.

The Senate Appropriations Committee-approved version of the Military Construction and Veterans Affairs Appropriations bill for FY2009 recommended $41.1 billion (excluding collections) for VHA for FY2009. This was a 4.8% increase over the FY2009 request, and $294 million above the House Appropriations Committee-recommended amount. The Senate Appropriations Committee concurred with the President's proposal to merge the medical services account with the medical administration account.

Under the proposed new account structure the Committee recommended $35.6 billion for the medical services account, a 4.4% ($1.5 billion) increase over the FY2009 request. S. 3301, as marked up by the Committee, also provided $5.0 billion for medical facilities. This was a 21% increase compared to the FY2008 enacted amount, 6.4% above the FY2009 request, and $68 million below the House Committee-recommended amount. The Senate marked up MILCON-VA appropriations bill also provided $527 million for the medical and prosthetic research account. This was a 19.2% increase over the FY2009 request, and 9.8% above the FY2008 enacted amount.

The Military Construction and Veterans Affairs Appropriations Act, 2009 (H.R. 2638, P.L. 110-329) provides approximately $41.0 billion (excluding collections) for VHA for FY2009. Funding levels for the medical services, medical support and compliance, medical facilities, and medial and prosthetic research accounts remained closer to the House-approved amounts. P.L. 110-329 provides $375 million to increase Priority Group 8 enrollment. It also includes an additional $133 million to increase the beneficiary travel reimbursement mileage rate to 41.5 cents per mile while freezing the deductible at current levels.

Title III: Related Agencies

American Battle Monuments Commission

The American Battle Monuments Commission (ABMC) is responsible for the maintenance and construction of U.S. monuments and memorials commemorating the achievements in battle of U.S. armed forces since the nation's entry into World War I; the erection of monuments and markers by U.S. citizens and organizations in foreign countries; and the design, construction, and maintenance of permanent cemeteries and memorials in foreign countries. The Commission maintains 24 cemeteries, 22 separate monuments and markers in foreign countries, and three memorials on U.S. soil.

The ABMC was responsible for the planning and construction of the World War II Memorial on the Mall in Washington, DC. Though the National Park Service assumed responsibility for the operation and maintenance of the Memorial at its dedication, the ABMC retains a fiduciary responsibility for the remaining public contributions given for its construction. The ABMC also undertook construction of an Interpretive Center at the Normandy American Cemetery in Normandy, France, to commemorate the World War II Allied invasion of France on June 6, 1944, and the subsequent land battles in Europe. The new facility opened on June 6, 2007.

U.S. Court of Appeals for Veterans Claims

The U.S. Court of Appeals for Veterans Claims was established by the Veterans' Administration Adjudication Procedure and Judicial Review Act of 1988 (P.L. 100-687). The Court is an

independent judicial tribunal with exclusive jurisdiction to review decisions of the Board of Veterans' Appeals. It has the authority to decide all relevant questions of law; interpret constitutional, statutory, and regulatory provisions; and determine the meaning or applicability of the terms of an action by the VA. It is authorized to compel action by the VA. It is authorized to hold unconstitutional or otherwise unlawful and set aside decisions, findings, conclusions, rules and regulations issued or adopted by the VA or the Board of Veterans' Appeals.

The Court currently occupies leased facilities near Judiciary Square in the District of Columbia and is searching for a permanent location as the current lease expires in September 2010. The Court's major operational initiative is to continue and develop plans, with the General Services Administration, for a Veterans' Courthouse and Justice Center.

Department of Defense: Civil (Army Cemeterial Expenses)

The Secretary of the Army is responsible for the administration, operation and maintenance of Arlington National Cemetery and the Soldiers' and Airmen's Home National Cemetery. In addition to its principal function as a national cemetery, Arlington is the site of approximately 3,200 non-funeral ceremonies each year and has approximately 4,000,000 visitors annually.

The FY2008 Omnibus (P.L. 110-161) included additional funds in FY2008 for realignment of government-issued headstones, construction of a heavy equipment storage facility, and funds for costs not included in the budget request related to the relocation of utilities at Arlington Cemetery.

Armed Forces Retirement Home (AFRH)

The Armed Forces Retirement Home Trust Fund provides funds to operate and maintain the Armed Forces Retirement Home in Washington, DC (also known as the United States Soldiers' and Airmen's Home) and the Armed Forces Retirement Home in Gulfport, Mississippi (originally located in Philadelphia, PA, and known as the United States Naval Home). These two facilities provide long-term housing and medical care for approximately 1,600 needy veterans. The Gulfport campus, encompassing a 19-story living accommodation and medical facility tower, was severely damaged by Hurricane Katrina at the end of August, 2005, and is not currently in use. Residents of the facility were transferred to the Washington, DC, location immediately after the storm. A Memorandum of Understanding (MOU) was signed between the AFRH and the General Services Administration (GSA) for the rebuilding of the Gulfport facility, with a targeted completion date in 2010.

The appropriation for the AFRH facilities is from the Armed Forces Retirement Home Trust Fund. The trust fund is maintained through gifts, bequests, and a $0.50 per month assessment on the pay of active duty enlisted military personnel and warrant officers. The FY2008 Omnibus (P.L. 110-161) provided $800,000 in general funds for the study of the long-term viability of the trust fund.

The budget request for FY2009 includes funds for renovation of the Scott Dormitory Building for residents on the D.C. campus. The renovations are scheduled to begin in 2010, so the new Gulfport facility can be used to house the D.C. residents displaced by the renovations.

Table 9 shows the FY2008 enacted appropriations, the FY2009 request, and the appropriations provided in H.R. 6559, S. 3301, and H.R. 2638 (P.L. 110-329) for each of the related agencies.

Table 9. Appropriations: Related Agencies, FY2008-FY2009

(budget authority in thousands of $)

	FY2008 Enacted	FY2009 Request	FY2009 House (H.R. 6559)	FY2009 Senate (S. 3301)	FY2009 Enacted (H.R. 2638)
American Battle Monuments Commission (ABMC)					
Salaries and expenses	44.600	64.570	55.470	59.470	$59.470
Foreign currency fluctuations account	11.000	0.000	17.100	17.100	17.100
Total, ABMC	*55.600*	*64.570*	*72.570*	*76.570*	*76.570*
U.S. Court of Appeals for Veterans Claims					
Salaries and expenses	22.717	23.975	73.975	23.975	30.975
Army Cemeterial Expenses					
Salaries and expenses	31.230	31.230	31.230	42.230	36.730
Armed Forces Retirement Home (AFRH)					
Operation and maintenance	55.724	63.010	63.010	63.010	63.010
General Fund Appropriation	0.800				
Total, AFRH	*56.524*	*63.010*	*63.010*	*63.010*	*63.010*
Total, All Related Agencies	**166.071**	**182.785**	**240.785**	**205.785**	**$207.285**

Source: Table prepared by the Congressional Research Service based on reports of the House and Senate Appropriations Committees, various fiscal years.

Appendix A. DOD Military Construction Accounts

Table A-1. Appropriations: Military Construction Appropriations Accounts

(budget authority in $000)

Account	FY2007 Enacted	FY2008 Enacted	FY2009 Request	FY2009 House Committee (H.R. 6659)	FY2009 Senate Committee (S. 3301)	FY2009 Enacted (H.R. 2683)
Military Construction, Army	3,330,031	3,936,583	4,615,920	4,801,536	4,561,561	4,692,648
Rescissions	—	(8,690)	—	(51,320)	(65,120)	(51,320)
Emergency Approps. (P.L. 110-252)	—	1,108,200	—	—	—	—
Total	3,330,031	5,036,093	4,615,920	4,750,216	4,496,441	4,641,328
Military Construction, Navy and Marine Corps	1,565,407	2,198,394	3,096,399	3,280,809	3,159,191	3,333,369
Rescissions	—	(10,557)	—	—	—	—
Emergency Approps. (P.L. 110-252)	—	355,907	—	—	—	—
Total	1,565,407	2,543,744	3,096,399	3,208,809	3,159,191	3,333,369
Military Construction, Air Force	1,154,756	1,159,747	934,892	976,524	1,058,694	1,117,746
Rescissions	—	(10,470)	—	(17,681)	(8,080)	(20,821)
Emergency Approps. (P.L. 110-252)	—	399,627	—	—	—	—
Total	1,154,756	1,548,904	934,892	958,843	1,050,614	1,096,925
Military Construction, Defense-wide	1,135,846	1,609,596	1,783,998	1,614,450	1,688,270	1,695,204
Rescissions	—	(10,192)	—	(3,589)	—	(3,589)
Emergency Approps. (P.L. 110-252)	—	890,921	—	—	—	—
Total	1,135,846	2,490,325	1,783,998	1,610,861	1,688,270	1,691,615
Total, Active components	**7,186,040**	**11,619,066**	**10,431,209**	**10,600,729**	**10,394,516**	**10,763,237**
Military Construction, Army National Guard	473,000	536,656	539,296	628,668	660,669	736,317
Rescissions	—	—	—	—	(1,400)	(1,400)
Total	473,000	536,656	539,296	628,668	659,269	734,917
Military Construction, Air National Guard	126,000	287,537	34,374	142,809	180,286	242,924
Military Construction, Army Reserve	166,000	148,133	281,687	282,607	357,387	282,607
Military Construction, Naval Reserve	43,000	64,430	57,045	57,045	61,045	57,045

Account	FY2007 Enacted	FY2008 Enacted	FY2009 Request	FY2009 House Committee (H.R. 6659)	FY2009 Senate Committee (S. 3301)	FY2009 Enacted (H.R. 2683)
Military Construction, Air Force Reserve	45,000	28,359	19,265	30,018	29,915	36,958
Rescissions	—	(3,069)	—	—	—	—
Total	45,000	25,290	19,265	30,018	29,915	36,958
Total, Reserve components	**853,000**	**1,062,046**	**931,667**	**1,141,147**	**1,287,902**	**1,354,451**
Total, Military Construction	**8,039,040**	**12,681,112**	**11,362,876**	**11,741,876**	**11,682,418**	**12,117,688**
NATO Security Investment Program	**328,111**	**201,400**	**240,867**	**218,867**	**240,867**	**230,867**
Family Housing Construction, Army	595,362	424,400	678,580	646,580	678,580	646,580
Rescissions	—	(4,559)	—	—	—	—
Total	595,362	419,841	678,580	646,580	678,580	646,580
Family Housing Ops and Debt, Army	718,816	731,920	716,110	716,110	721,110	716,110
Family Housing Construction, Navy and Marine Corps	231,733	293,129	382,778	382,778	381,073	380,123
Emergency Approps. (P.L. 110-252)	—	11,766	—	—	—	—
Total	231,733	304,895	382,778	—	—	308,123
Family Housing Ops and Debt, Navy and Marine Corps	503,165	371,404	376,062	376,062	381,062	376,062
Family Housing Construction, Air Force	1,222,399	327,747	395,879	395,879	395,879	395,879
Rescissions	—	(15,000)	—	—	—	—
Total	1,222,399	312,747	395,879	395,879	395,879	395,879
Family Housing Ops and Debt, Air Force	795,162	688,335	599,465	594,465	604,465	594,465
Family Housing Construction, Defense-wide	9,000	—	—	—	—	—
Rescissions	—	—	—	—	—	(6,040)
Total	9,000	—	—	—	—	(6,040)
Family Housing Ops and Debt, Defense-wide	47,957	48,848	49,231	49,231	49,231	49,231
DOD Family Housing Improvement Fund	—	500	850	850	850	850
Homeowners Assistance Fund	—	—	4,500	4,500	4,500	4,500

Account	FY2007 Enacted	FY2008 Enacted	FY2009 Request	FY2009 House Committee (H.R. 6659)	FY2009 Senate Committee (S. 3301)	FY2009 Enacted (H.R. 2683)
Total, Family Housing	**4,123,594**	**2,878,450**	**3,203,455**	**3,166,455**	**3,216,750**	**3,157,760**
Chemical Demilitarization Construction, Defense-wide	**131,000**	**104,176**	**134,278**	**134,278**	**144,278**	**144,278**
Base Realignment and Closure						
BRAC, 1990	137,393	295,689	393,377	473,377	468,377	458,377
BRAC, 2005	5,622,872	7,235,591	9,065,386	9,065,386	8,991,700	8,765,613
Emergency Approps. (P.L. 110-252)	—	1,278,886	—	—	—	—
Total, BRAC	**5,760,265**	**8,810,166**	**9,458,763**	**9,538,763**	**9,460,077**	**9,223,990**
Air National Guard Fire Stations (Sec. 131)	—	—	—	—	—	28,000
Army National Guard Aviation and Training (Sec. 132)	—	—	—	—	—	147,000
Emergency Appropriations (P.L. 110-252, Sec. 1001) Barracks Improvements	—	200,000	—	—	—	—
Grand Total, MilCon & FH[a]	**18,382,010**	**24,875,344**	**24,400,239**	**24,800,239**	**24,744,390**	**25,049,583**

Note:

a. Figures do not include amounts added in the American Recovery and Reinvestment Act for 2009 (H.R. 1).

Appendix B. Additional Resources

Budget

CRS Report RL30002, *A Defense Budget Primer*, by Mary T. Tyszkiewicz and Stephen Daggett.

CRS Report 98-720, *Manual on the Federal Budget Process*, by Robert Keith and Allen Schick.

Veterans Affairs

CRS Report RL33991, *Disability Evaluation of Military Servicemembers*, by Christine Scott et al..

CRS Report RS22483, *Health Care for Dependents and Survivors of Veterans*, by Sidath Viranga Panangala and Susan Janeczko.

CRS Report RS20533, *VA-Home Loan Guaranty Program: An Overview*, by Bruce E. Foote.

CRS Report RL33704, *Veterans Affairs: The Appeal Process for Veterans' Claims*, by Douglas Reid Weimer.

CRS Report RL33113, *Veterans Affairs: Basic Eligibility for Disability Benefit Programs*, by Douglas Reid Weimer.

CRS Report RL33323, *Veterans Affairs: Benefits for Service-Connected Disabilities*, by Douglas Reid Weimer.

CRS Report RL34370, *Veterans Affairs: Health Care and Benefits for Veterans Exposed to Agent Orange*, by Sidath Viranga Panangala and Douglas Reid Weimer.

CRS Report RS22897, *Veterans Affairs: Historical Budget Authority, Fiscal Years 1940 through 2008*, by Christine Scott.

CRS Report RS22561, *Veterans Affairs: The U.S. Court of Appeals for Veterans Claims—Judicial Review of VA Decision Making*, by Douglas Reid Weimer.

CRS Report RS22666, *Veterans Benefits: Federal Employment Assistance*, by Christine Scott.

CRS Report RL33985, *Veterans' Benefits: Issues in the 110th Congress*, coordinated by Carol D. Davis.

CRS Report RL33992, *Veterans Benefits: Merchant Seamen*, by Christine Scott and Douglas Reid Weimer.

CRS Report RS22902, *Veterans Benefits: An Overview*, by Carol D. Davis, Sidath Viranga Panangala, and Christine Scott.

CRS Report RL34626, *Veterans' Benefits: Benefits Available for Disabled Veterans*, by Christine Scott and Carol D. Davis.

CRS Report RS22804, *Veterans' Benefits: Pension Benefit Programs*, by Carol D. Davis and Christine Scott.

CRS Report RL34627, *Veterans' Benefits: The Vocational Rehabilitation and Employment Program*, by Christine Scott and Carol D. Davis.

CRS Report RL33993, *Veterans' Health Care Issues*, by Sidath Viranga Panangala.

CRS Report RL34598, *Veterans Medical Care: FY2009 Appropriations*, by Sidath Viranga Panangala.

Selected Websites

House Committee on Appropriations
http://appropriations.house.gov/

Senate Committee on Appropriations
http://appropriations.senate.gov/

House Committee on Armed Services
http://www.house.gov/hasc/

Senate Committee on Armed Services
http://armed-services.senate.gov/

House Committee on Veterans Affairs
http://veterans.house.gov/

Senate Committee on Veterans Affairs
http://veterans.senate.gov/

CRS Appropriations Products Guide
http://www.crs.gov/products/appropriations/apppage.shtml

Congressional Budget Office
http://www.cbo.gov/

Defense Base Closure and Realignment Commission (BRAC Commission)
http://www.brac.gov

Government Accountability Office
http://www.gao.gov/

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