



## Legislative Bulletin.....May 11, 2006

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**H.R. 5122**—Amendments to the National Defense Authorization Act for Fiscal Year 2007, **Part II**

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H.R. 5122, the National Defense Authorization Act (sponsored by Rep. Hunter, R-CA), is scheduled to be considered on the House floor on Thursday, May 11<sup>th</sup>, subject to a second structured rule (H.Res. 811). Below are summaries of the 23 amendments made in order under the second rule. All amendments are debatable for 10 minutes unless otherwise noted. Note: summaries are based on RSC staff's review of actual amendment text. For a summary of the underlying bill, see a separate RSC document released earlier in the week.

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**1. Baca (D-CA).** Requires DoD to study the scope of perchlorate contamination at Formerly Utilized Defense Sites (FUDS). The FUDS program was established “to address DOD generated contamination on property no longer owned by, under the direct control of, or managed by DOD.”

Source:

[http://www.ecos.org/files/1453\\_file\\_Copy\\_of\\_Resolution\\_05\\_5.pdf?PHPSESSID=5ca982368af6d6792fc6a8812b7bd614](http://www.ecos.org/files/1453_file_Copy_of_Resolution_05_5.pdf?PHPSESSID=5ca982368af6d6792fc6a8812b7bd614)

**2. Castle (R-DE).** Requires DoD to develop a strategy for linking incentives to specific outcomes, such as meeting cost, schedule, and capability goals. Establishes guidance for improving the effectiveness of award and incentive fees and ensures that appropriate approving officials are overseeing these decisions. The Department would be required to report to Congress on the status and effectiveness of these new standards. According to the sponsor, this amendment would implement GAO's recommendations to cut down on wasteful award and incentive fee spending. Expresses the Sense of Congress that award and incentive fees should be used to motivate excellent contractor performance and that such fees should not be awarded for below-satisfactory performance.

**3. Chabot (R-OH).** Expresses the Sense of Congress that the spouses of Armed Forces members who have died between October 7, 2001 (the beginning of Operation Iraqi Freedom) and November 23, 2003, should be permitted to have the option of assigning their Survivor Benefit Plan payments to their children. According to the sponsor's office, this amendment will allow approximately 400 widows who are not currently permitted to assign their benefits to their children, to do so.

**4. Davis, Tom (R-VA).** **Increases by \$1 million** (from \$3.8 million to \$4.8 million) funds earmarked in current law, for the design and construction of the Fairfax County Parkway, and conceptual design for eventual incorporation and construction access into the Engineer Proving

Ground at the Rolling Road Interchange from Fairfax County Parkway, as specified in Virginia Department of Transportation Project #R000-029-249. Allows funds paid by Virginia, which are currently used as a credit for projects on the Engineer Proving Ground, to be used for the “construction of a security barrier.” Authorizes the Army to enter into an agreement with Virginia to provide for the design and construction by the Army or the U.S. Department of Transportation, of certain portions of the Fairfax County Parkway. According to the sponsor, “As a result of the construction mandated by BRAC on the Engineering Proving Ground, [the amendment] would authorize the Army to enter into a special agreement with the state of Virginia. ... This agreement would authorize the state of Virginia to fund certain projects on the [Engineering Proving Ground] while allowing the Army to maintain control of such projects.”

**5. Davis, Tom (R-VA).** Amends a Sense of Congress in current law regarding roads leading onto a military installation that are significantly impacted by an increase in the number of members of the Armed Forces assigned to the installation as a result of the 2005 round of defense base closure and realignment under BRAC. These roads are part of the Defense Access Road (DAR) program, and this amendment inserts “transit systems” as also eligible for participation in DAR. In addition, the amendment adds additional requirements for a study provided for in current law regarding military installations impacted by BRAC.

**6. Dent (R-PA).** Amends Title XIV of the underlying bill (relating to the Homeland Defense Technology Transfer) to require the Department of Defense to work with the Department of Homeland Security as a part of a Homeland Defense-Homeland Security Technology Transfer Consortium to accelerate the transfer of viable DoD technologies to enhance the homeland security capabilities of federal, state, and local first responders.

**7. Gohmert (R-TX).** Expresses the sense of Congress that the Secretary of the Army should consider conveying the U.S. Army Reserve Center in Marshall, Texas to the Marshall-Harrison County Veterans Association for the purpose of erecting a veterans memorial, creating a park, and converting the present building to veterans museum to recognize and honor the accomplishments of our Armed Forces.

**8. Goode (R-VA).** Authorizes the Secretary of Defense to assign members of the Army, Navy, Air Force, and Marine Corps, under certain circumstances and subject to certain conditions, to assist the Department of Homeland Security (upon its request) in preventing the entry of terrorists, drug traffickers, and illegal aliens into the U.S, and in the performance of other border protection functions. Directs DHS and DoD to **establish a new training program** to ensure that members receive general instruction regarding issues affecting law enforcement. States that nothing in the amendment is to be construed as authorizing the search, seizure, or other similar law enforcement activity, or activities in violation of the Posse Comitatus Act, which prohibits the Armed Forces from participating in civilian law enforcement activities. Establishes at DHS, an ongoing joint task force, if DHS determines that the joint task force and the assignment of members to the joint task force, is necessary to respond to a threat to national security posed by the entry into the U.S. of terrorists, drug traffickers, or illegal aliens.

**9. Hooley (D-OR):** Adds a new section to the bill which authorizes the Army and National Guard Bureau to contract (with a U.S. contractor) to perform CH-47 helicopter RESET (refurbishing) on

fleets that are assigned to the Nevada and Oregon National Guard. The amendment states the purpose is to “reduce the non-operational rate of their CH-47 fleet.” It specifies that costs, completion time, and maintenance capabilities must be the “major considerations” in selecting the contractor to perform the RESET activity. The sponsor’s office stated that this amendment may be modified before consideration.

**10. Hostettler (R-IN):** Adds a new section to the bill which directs the Secretary of Defense to prescribe regulations under which DoD may award educational fellowships (to a U.S. citizen or national) toward the completion of a master’s or doctoral degree. For master’s degree students, the fellowship recipient must be enrolled in a master’s degree program with a concentration in a subject area with military relevance (approved by DoD). For doctoral degree students, the fellowship recipient must agree to prepare a doctoral dissertation in a subject area with military relevance (approved by DoD). It requires that the regulations include criteria for awarding the fellowship, procedures for selecting recipients, a basis for determining the amount a recipient will receive, and the total amount that may be used to award fellowships during an academic year.

**11. Jindal (R-LA):** Adds a new section to the bill requiring the Defense Secretary (in coordination with DHS and state governments) to develop detailed operational plans regarding the use of the Armed Forces to support civil authority activities (known as Defense Support to Civil Authorities missions); requires the plans to “specifically address response operations to hurricanes, wildfires, earthquakes, pandemic, and other natural disasters.”

**12. Lewis (R-KY):** Adds a new section to the bill allowing military personnel who are in debt to the U.S. (due to overpayment and at no fault of their own) to repay the amount owed in monthly installments, and stipulates that the monthly amount paid cannot exceed 20 percent of the member’s monthly pay; also stipulates that military personnel indebted to the U.S. who are recovering from an injury or illness (incurred in the line of duty) must be notified 90 days in advance of any deduction from their pay.

**13. McDermott (D-WA)/Shays (R-CT).** Directs the Secretary of Defense, in consultation with the Secretary of Veterans Affairs and the Secretary of Health and Human Services, to conduct a comprehensive study of the health effects of exposure to depleted uranium munitions on uranium-exposed soldiers and on children of uranium-exposed soldiers who were born after their parent-soldier was exposed to depleted uranium.

**14. Mica (R-FL):** Adds a new section to the bill stating a Sense of Congress calling for payments to World War II veterans who survived the Bataan Death March; stipulates the amount of payment to be \$4 for each day of captivity during World War II, compounded annually at a three percent annual rate of interest (to be paid to an unremarried spouse in the case of a survivor who is now deceased). Since this amendment is a Sense of Congress, it is not binding on the Department of Defense and therefore has no cost; however, if DoD acted upon this Sense of Congress, CBO estimated that it would cost \$10 million in FY06 and \$29 million in FY06-FY10. CBO estimates that “about 60 percent of the 1,700 veterans or surviving spouses still alive would receive payments, receiving an average of \$30,000 each.

**15. Millender-McDonald (D-CA).** Requires DoD to include, as part of the 2006 update to the Mobility Capability Study, a comprehensive analysis of future airlift and sealift mobility requirements. The study would examine both the strategic and intra-theater mobility requirements with full consideration of all aspects of the National Security Strategy, and will analyze low-, medium-, and high- risk alternatives. The new analysis would be required to be delivered to Congress by February 1, 2007.

**16. Rohrabacher (R-CA).** **Authorizes \$5 million** for the Secretary of the Air Force to establish a Center for Entrepreneurial Space Access within the Air Force Research Laboratory's Air Vehicles Directorate to ensure cooperation between DoD and the U.S. entrepreneurial space transportation industry to develop increased capability in the operationally responsive space area in a competitive environment. Lists a number of findings regarding DoD investments in Operationally Responsive Space access.

**17. Ryan (D-OH).** **Authorizes \$5 million** for the High Altitude Airship (HAA) Program, offset by a \$5 million reduction in authorizations for the Space Based Space Surveillance System. According to the sponsors, "The HAA is designed to be an uninhabited, long-endurance, platform for carrying forward based sensors and a wide range of other BMD payloads that will enable continuous over-horizon communication. The HAA will also provide wide area surveillance and protection without interruption or the risk associated with manned aircraft."

**18. Schakowsky (D-IL).** Requires the Office of the Inspector General at DoD to submit to Congress a report on overcharges discovered by the Inspector General under contracts entered into by the Department for work to be performed in Iraq and Afghanistan. Makes retroactive, upon contract extension, DOD regulations for contractors issued in October 2005, on previously issued contracts. Requires DoD to implement a policy for conducting comprehensive background checks on foreign nationals hired by contractors operating outside the United States.

**19. Schiff (D-CA):** Adds a new section to the bill that requires the Defense Secretary to submit a report to Congress regarding the status of the threat posed by improvised explosive devices (IEDs), and describing efforts being undertaken to defeat this threat. The first report is due within 30 days of enactment, and supplemental reports must be submitted every 90 days thereafter (accounting for every incident involving the detonation or discovery of an IED). It stipulates that the report must be unclassified, with a classified annex, if necessary.

**20. Slaughter (D-NY):** Adds a new section to the bill requiring the inclusion of the *results* of disciplinary action within the annual DoD report regarding cases of sexual assault. Specifically, this amendment modifies the Reagan National Defense Authorization Act for FY05 (P.L. 108-375) as follows (new text in red bold):

Each report on an Armed Force under paragraph (1) shall contain the following: (A) The number of sexual assaults against members of the Armed Force, and the number of sexual assaults by members of the Armed Force, that were reported to military officials during the year covered by such report, and the number of the cases so reported that were substantiated. (B) A synopsis of, and the disciplinary action taken in, each substantiated case **and the results of the disciplinary action.**

**21. Taylor (D-MS).** Requires DoD to “take such steps as necessary” to ensure that by the end of FY07, all U.S. military wheeled vehicles used in Iraq and Afghanistan outside of military compounds are equipped with effective Improvised Explosive Device jammers. Funding would be authorized from funds contained in Title XV (bridge fund). Requires DoD to submit a report to the Congressional defense committees no later than December 15, 2006, with the plan and cost to achieve this directive.

**22. Tierney (D-MA)/Holt (D-NJ).** Prohibits the deployment of: 1) Ground-Based Midcourse Defense beyond the authorized systems, and 2) any space-based interceptors. Reduces the Missile Defense Agency’s budget (currently \$9.3 billion), by \$4.747 billion as follows:

- \$595 million from termination of the Airborne Laser program;
- \$500 million from termination of the additional AEGIS Ballistic Missile Defense activities;
- \$286 million from termination of the Kinetic Energy Interceptor program;
- \$360 million from termination of the Space Surveillance and Tracking System;
- \$56 million from termination of the European Site;
- \$2.5 billion from termination of Additional Ground-Based Midcourse Deployment; and
- \$450 million from reduction of programs designated as Other MDA RDT&E Activities.

According to the sponsor, this reduction “is to still enable the MDA to focus on research and development as well as testing and upgrades to current systems.” Prohibits funds available to DoD from being obligated for deployment of any boost-phase defense system.

**23. Weldon (R-PA).** Expresses the Sense of the Congress that the United States should cooperate with Russia on missile defense. Cites two specific examples of possible avenues of cooperation: 1) testing specific elements of the Missile Defense Agency’s detection and tracking equipment through the use of Russian target missiles; and 2) providing early warning radar to the Missile Defense Agency by using Russian radar data.