



United States House of Representatives

HOUSE ARMED SERVICES COMMITTEE **DEMOCRATS**

*Adam Smith, Ranking Member*

## **Fiscal Year 2019 National Defense Authorization Act Conference Report Summary**

The FY19 National Defense Authorization Act Chairman’s mark would authorize approximately \$639.1 billion in discretionary base budget authority. It would authorize approximately \$69.0 billion of Overseas Contingency Operations (OCO).

### **Key Provisions**

#### **Russia and Europe**

Fully funds the European Deterrence Initiative (EDI) at \$6.3 billion, the largest amount to date, with the aim of strengthening deterrence against Russian threats; enhancing U.S. defense posture in Europe; combatting cyber, propaganda, and other influence efforts; and continuing to deepen our commitment to and support for U.S. allies and partners.

Extends the legal prohibition on DOD military-to-military cooperation with Russia.

Extends and strengthens the prohibition on funding for any activity that would recognize the sovereignty of the Russian Federation over Crimea.

Extends for two years the authorization for the Ukraine Security Assistance Initiative (USAI), which provides support and assistance to the Ukrainian Armed Forces while encouraging additional reforms and transparency in Ukraine. Increases authorized funding by \$50 million above the FY 2019 budget request to \$250 million, provided that the additional funds are used for lethal defensive equipment.

Labels Russia a violator of the Chemical Weapons Convention (CWC) for using chemical weapons in assassinations in the United Kingdom and its involvement with Syria’s chemical weapons use.

Directs the President to task an NSC official with coordinating a whole-of-government response to malign foreign influence operations and campaigns, defines “malign foreign influence operations and campaigns,” and requires a strategy to counter them.

Strengthens the Department of State’s Global Engagement Center by authorizing the center to “direct, lead and coordinate” efforts of the Federal Government to recognize, understand, expose, and counter foreign state and non-state propaganda and disinformation efforts aimed at undermining United States national security interests.

Extends authority for DOD to transfer funds to the GEC.

Authorizes the National Command Authority to deter, disrupt, and defeat ongoing active, systemic cyber campaigns from the Russian Federation, People's Republic of China, Democratic People's Republic of Korea, or Islamic Republic of Iran, including those campaigns attempting to influence American elections and democratic political processes. States that the President needs to address the cyber campaigns of state-actors, especially those aimed at our democracy. Retains the FY18 NDAA requirement for the President to impose sanctions on Russia for its violations of the INF.

Requires a Presidential certification that the President has complied with the FY2018 NDAA requirements that the President impose sanctions on Russia for its violations of the INF Treaty and submit to Congress a plan for additional sanctions; drops the House provision that would have declared INF Treaty obligations no longer legally-binding as a matter of law unless Russia has returned to verifiable compliance with the treaty; mandates a Presidential determination of whether Russia is in material breach of the INF Treaty, and whether the prohibitions on testing and deploying systems that would violate the treaty remain binding on the United States.

Limits authorization of DOD funds for extending the New START Treaty until Congress receives a report on Russian weapons development.

Prohibits funding for modifying sensors on U.S. aircraft or procuring new aircraft for the Open Skies Treaty (both used for to conduct U.S. verification flights over Russia) until Congress receives a Presidential certification that he has imposed treaty violation responses. Also authorizes funding for two new aircraft for Open Skies Treaty verification, which the House bill had cut.

**CAATSA:** Includes a provision allowing the President to waive a requirement to impose future sanctions on third-party countries and entities doing business with Russia under the Countering America's Adversaries Through Sanctions Act (CAATSA) for 180 days, if that country or entity is taking steps to distance itself from a commercial relationship with the Russian defense and intelligence sectors.

The provision is more stringent than the provision passed in the House version of the NDAA. The waiver cannot be used for significant transactions with specified entities of the Russian defense or intelligence sectors who the Secretary of State, in consultation with the Director of National Intelligence, determines has committed cyber intrusions on behalf of the Russian government. It requires the President to certify that the waiver would not (1) endanger the integrity of any multilateral alliance of which the United States is a part; (2) adversely affect ongoing operations of the Armed Forces of the United States, including coalition operations in which the such forces participate; (3) result in a significant negative impact to defense cooperation between the United States and the country whose government has primary jurisdiction over the person; and (4) significantly increase the risk of compromising United States defense systems and operational capabilities, including through the diversion of United States sensitive technology. It also requires the Secretary of State and Secretary of Defense to

subsequently submit justifications and reporting every two years for any use of this waiver, and it would not modify, waive, or terminate any existing sanctions in effect before enactment.

**Huawei, ZTE, and other companies:** Includes a provision imposing government-wide prohibitions on the procurement of telecommunications and video surveillance equipment and services from certain companies based in China and connected to the government of China.

**CFIUS:** Includes provisions implementing reforms to the CFIUS review process.

**Major Environmental Riders:** Democrats successfully prevented the inclusion of numerous toxic environmental riders in the conference report. These include the following.

- **Endangered Species Act:** Does not include a provision that would have prohibited the Greater Sage Grouse and the Lesser Prairie Chicken from being listed under the Endangered Species Act (ESA) for a period of 10 years and would reverse a 1989 determination of endangered status for the American Burying Beetle.
- **Mineral Mining Regulations:** Does not include a provision that would have weakened the environmental review and regulatory process for new mines.
- **Superior Forest Exchange:** Does not include a provision that would have transferred land from the Superior National Forest to a private company for the purposes of establishing a mine.
- **Indefinite Land Withdrawals:** Does not include the House provision that would have made all military land withdrawals indefinite.
- **Marine Mammals Protection Act:** Includes an extension of an existing exception for the Navy in the Marine Mammal Protection Act to grant 7 year permits (rather than the current 5 year) for the incidental taking of marine mammals during military training, testing, and operations. This was a compromise after the original House provision would have provided 10 year permits.

**Turkey:** Requires a report on the impact of Turkey's bad behavior, including an assessment of the U.S. bilateral relationship on U.S. security interests in Turkey, an assessment of Turkey's participation in the F-35 program, as well as an assessment of the operational and counterintelligence risks posed by the deployment of the S-400 air and missile defense system on weapons systems and platforms operated jointly with Turkey, including the F-35. Prevents delivery of F-35 to Turkey until the report is complete.

**Yemen:** Includes a provision that would prohibit the expenditure of funds to provide authorized in-flight refueling to Saudi or Saudi-led coalition non-United States aircraft conducting missions in Yemen, pending certifications by the Secretary of State that the governments of Saudi Arabia and the UAE are taking certain actions related to the civil war in Yemen. Requires the Secretary

of Defense to conduct a review to determine whether the Armed Forces or U.S. partners violated applicable laws or policies while conducting operations in Yemen.

**Korea:** Places a funding prohibition on reducing the number of active duty U.S. service members deployed to the Republic of Korea below 22,000, unless the Secretary of Defense certifies that the reduction is in the national security interest of the United States and will not significantly undermine the security of United States allies in the region, and the Secretary has appropriately consulted with allies of the United States, including the Republic of Korea and Japan, regarding the reduction.

**Burma:** Does not include the House provision imposing sanctions on the Burmese military and security forces.

**Niger:**

- Requires the Under Secretary of Defense for Policy to conduct a review of the legal and policy frameworks associated with advise, assist, and accompany missions by United States Military Personnel.
- Requires a report from the Secretary of Defense on missions, operations, and activities of the Department of Defense in Niger that includes a description of the implementation of the Niger investigation recommendation to date and measures to mitigate operational risks to troops.

**Iraq & Syria:** Renews the authority to provide assistance to counter the Islamic State of Iraq and Syria in Iraq through 2020. Also extends the authority for the Office of Security Cooperation in Iraq through 2019. Renews the Syria train-and-equip program and its associated reprogramming requirement through calendar year 2019. Limits the use of funds until the President submits to Congress the Syria strategy that was required in the FY18 NDAA and a report describing the plans, processes, mechanisms, and accompanying governance and stabilization activities for training the internal security forces of the vetted Syrian opposition under this authority.

Requires the Secretary of State to report on war crimes, crimes against humanity, and genocide in Syria. Also directs the Secretary of State to conduct a study and submit a report on transitional justice in Syria and authorize technical assistance for the purposes of ensuring accountability for war crimes, crimes against humanity, and genocide perpetrated by all forces fighting on the behalf of the regime of President Bashar al-Assad and all non-state armed groups fighting in Syria from March 2011 forward.

**Afghanistan:** Extends the Afghanistan Security Forces Fund through 2019 and sets a goal of \$25.0 million to promote the recruitment, training, and integration of Afghan women into the Afghan National Defense and Security Forces.

**Iran:** Authorizes the Secretary of Defense, with the concurrence of the Secretary of State, to develop a strategy with foreign partner countries to counter the destabilizing activities of Iran.

**CERP and Ex Gratia Payments:** Extends the Commanders' Emergency Response Program through 2019 and expands the list of eligible countries in which ex gratia payments may be made to include Somalia, Yemen, and Libya.

**China:** Requires the President to develop a whole-of-government strategy regarding strategic competition with China.

**Indo-Asia-Pacific:** Renames the United States Pacific Command the United States Indo-Pacific Command.

**Civilian Casualties and Oversight:**

- Requires the Secretary of Defense to designate a senior civilian official for civilian casualties in connection with U.S. military operations to develop, coordinate, and oversee compliance with policy and report to Congress on policies. This official will also be responsible for improving public mechanisms for civilian casualty reporting.
- Strengthens Congressional oversight over sensitive military operations.
- Clarifies and improves upon annual reporting of civilian casualties in connection with U.S. military operations.

**Troop Level Transparency:** Includes a provision to make publicly available the top-line numbers of deployed members of the Armed Forces.

**Aviation Safety Commission:** Includes the House provision, proposed by House Dem RM Adam Smith, to establish an independent National Commission on Military Aviation Safety.

**Guns:** Does not include the House provision that would have made it easier for defense industry to transfer machine guns between contractors or other entities.

Improves crime reporting by requiring DOD to establish a centralized oversight system to ensure criminal data is transmitted to the FBI database preventing the purchase of a firearm.

**Border Wall:** Does not include any substantial provisions regarding a border wall.

**Parade:** Includes the House provision authorizing a parade in recognition of American veterans. Authorizes the Secretary of Defense to carry out a parade in Washington, DC for the purpose of honoring American veterans. The provision would authorize the use of military units that perform customary ceremonial duties, and small arms and munitions appropriate for customary ceremonial honors, for the parade. Also authorizes the Defense Secretary to use any kind of motorized vehicle, aviation platform, munition, operational military unit, or operational military platform, unless he believes its use will affect its readiness.

**Guantanamo:** Does not authorize the construction of a new \$69 million High Value Detainee Complex that President Trump requested at Guantanamo Bay, Cuba.

Renews the status quo prohibition on transferring Guantanamo detainees into the United States, the Prohibition on the use of funds to construct or modify facilities in the United States to house Guantanamo detainees, and the prohibition on transferring Guantanamo detainees to Libya, Somalia, Syria, and Yemen.

**BRAC Prohibition:** Includes a House and Senate provision stating that nothing in the bill authorizes a new BRAC round.

**Limited Closure and Realignment Authority.** Includes a House provision that would allow SECDEF to close or realign a military installation if that installation is nominated for closure or realignment by a governor if certain conditions are met.

**Opioids:** Requires the Department of Defense to establish a prescription drug monitoring program and share information with state prescription drug monitoring programs in order prevent opioid abuse within the military, as well as requires a report on opioid prevention and treatment for military dependents

**Taking Care of Families:** Establishes Domestic Violence as a separate article under the UCMJ.

**Improving Security Cooperation Effectiveness and Accountability:** Expresses support for additional funding for assessment, monitoring, and evaluation of security cooperation programs and requires incorporation of lessons learned from 2001 onward into such programs. Further, requires consideration of political, social, economic, and other historical factors into the development of security cooperation train and equip programs that could impact the effectiveness of such programs.

Requires an annual report and additional information on cross-servicing support agreements with foreign militaries.

### **Acquisition Provisions**

- Expansion and clarification of definition of Commercial Products and Commercial Services across government procurement statutes, with the goal of increasing commercial product procurements in the future.
- Reduction of requirements for annual reports and unnecessary acquisition offices.
- Repeal of out-of-date acquisition legislation.
- Increase of DOD micro-purchase threshold to \$10,000.
- Update and streamlining of internal DOD procedures for weapon program cost and fielding targets.
- Increased oversight of Other Transaction Authority (OTA) agreements.
- Additional limitations on the use of lowest-priced, technically-acceptable (LPTA) competitions.
- Expanded authority for GSA to implement e-commerce purchases.

**Buy American:** Prevents the Navy from purchasing any major shipboard components for the fleet oilers that are not made in America. This will protect critical U.S. shipbuilding suppliers.

## **Subcommittee Portions**

### **Military Personnel Provisions**

Raises military pay by 2.6%.

Authorizes increased end-strength across the Army, Navy, Air Force, Naval and Air Reserve, and Air Guard.

Extends special pay and bonuses for service members.

Improves crime reporting by requiring DOD to establish a centralized oversight system to ensure criminal data is transmitted to the FBI database preventing the purchase of a firearm.

Requires the Department of Defense to establish a prescription drug monitoring program and share information with state prescription drug monitoring programs in order prevent opioid abuse within the military, as well as requires a report on opioid prevention and treatment for military dependents

Authorizes \$40 million for assistance to local educational agencies with military dependent students and \$10 million for local educational agencies eligible to receive a payment for children with severe disabilities.

Establishes Domestic Violence as a separate article under the UCMJ.

Amends article 128 of the Uniform Code of Military Justice to include suffocation and strangulation in conduct constituting aggravated assault.

Requires the Secretary of Defense to standardize the expedited transfer process for service members who are victims of domestic violence.

Expands eligibility for the expedited transfer process, following sexual assault, of domestic cases handled under the Family Advocacy Program.

Requires the Secretary of Defense to establish an expedited transfer policy for service members whose dependents are the victim of a sexual assault perpetrated by a non-relative service member.

Mandates increased DOD oversight of the Department's registered sex offender management program.

Requires the Secretary of Defense to establish a policy on the Department of Defense's response to allegations of juvenile-on-juvenile problematic sexual behavior on military installations.

Requires the Secretary of Defense to conduct a security clearance background reinvestigation under expedited procedures for flag officers and Senior Executive Service personnel employed by the Department of Defense convicted of sexual assault, sexual harassment, fraud against the

United States, or other serious crimes. The provision also ensures the conviction or determination is reported into federal law enforcement records and security clearance databases.

Requires the Department of Defense Education Agency (DODEA) to consolidate juvenile misconduct data into one centralized reporting database.

Requires the service secretaries to establish and maintain multidisciplinary teams on child abuse and other domestic violence at military installations

Requires the Secretary of Defense to conduct a pilot program to institute universal home visits to provide families training on safe childcare practices aimed at reducing child abuse and neglect.

Directs DOD to report on the Department's compliance with requirements to consult sexual assault victims on their preference for having a covered offense prosecuted by court-martial or in a civilian court with jurisdiction.

Requires DOD to establish a comprehensive oversight plan for implementation of the Department's new harassment prevention and response policy.

Increases the Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces's (DAC-IPAD) ability to advise the Secretary of Defense on sexual assault and sexual misconduct-related matters by broadening its access to information deemed relevant to its scope and mission.

Requires the Secretary of Defense, through DAC-IPAD, to provide a report every 2 years on the frequency with which victims of sexual offenses are accused of or punished for collateral misconduct.

Requires the Secretary of Defense to submit a report to Congress on the feasibility and advisability of expanding eligibility for the Special Victims' Counsel program to cover victims of domestic violence.

Updates the United States Merchant Marine Academy policy on stalking, sexual assault, sexual harassment, dating violence, and domestic violence.

Requires military service academies to provide cadets/midshipmen an information sheet with certain information regarding sexual assault resources.

Requires the Secretary of Defense to educate individuals who may be eligible to enroll in the Airborne hazards Open Burn Pit Registry

Overhauls the Transition Assistance Program (TAP) to provide service members better tailored resources and information as they prepare to enter civilian life.

Requires the Secretary of Defense to implement a policy to permit the issuance of provisional or interim clearances for supervised childcare services to increase capacity for military families.

Extends and standardizes installation benefits across the military services for certain surviving spouses and other next of kin of members of the Armed Forces who die while on Active Duty or certain reserve duty

Requires the Secretary of Defense to update and review the policy and procedures related to wounded warrior care coordination, administrative support, and facility standards.

Directs the Secretary of the Army to take steps to extend the life of Arlington National Cemetery.

### **Readiness Provisions**

**Operations & Maintenance:** Authorizes appropriations for \$198.5 billion in the base budget and \$48.7 billion for overseas contingency operations. This includes increases in readiness-enabling accounts in key areas such as depot-level maintenance, parts and spares, training, and facilities sustainment, restoration, and modernization.

**Military Construction:** Authorizes appropriations for \$11.3 billion for military construction, family housing, and BRAC. This includes authorization for 38 additional military construction projects from the services' unfunded priorities list. The agreement fully authorizes, but incrementally funds 12 military construction projects with an amount equal to what DOD could spend in FY19.

**Sea Level Rise:** Includes a provision to authorize the use of defense access roads funds to pay the cost of repairs or mitigations to prevent the closure of roads due to sea level rise or flooding.

**Open-Air Burn Pits:** Includes a provision to require a report on the ongoing use of open burn pits and the feasibility of phasing out the use of open burn pits by using incinerators.

### **PFOA/PFOS:**

- Authorizes an additional \$70 million above the budget request for environmental restoration to support the Department's response to drinking water contamination related to PFOS/PFOA.
- Authorizes \$10 million and includes a provision that authorize the Department of Defense to transfer funding to the Department of Health and Human Services for the purpose of carrying out a health study authorized by the FY2018 National Defense Authorization Act.
- Does not include a provision that would have authorized the Secretary of Defense to treat PFOS/PFOA in drinking water at State-owned and operated National Guard installations using environmental restoration funds.

**Workload Carryover:** Includes a provision that requires the Secretary of Defense to modify the workload carryover calculation formula for each military depot or arsenal through September 30, 2021. The modifications would reflect the timing of enacted appropriations and the varying repair cycle times of the current workload supported.

**Depot Level Maintenance and Report:** Includes a provision that requires the Secretary of Defense to submit a report on labor hours and depot maintenance performed in the public and private sectors.

**Defense Community Infrastructure Program:** Includes a provision that authorizes a new grant program for the Secretary of Defense to assist State and local governments in addressing deficiencies in community infrastructure projects or facilities which are located outside of military installations but which support military installations.

**Energy and Climate Resiliency Masterplans:** Includes a provision that requires installation master plans to address climate and energy resiliency initiatives aimed at ensuring the ability to sustain mission-critical operations.

**Operational Energy Policy:** Includes a provision that provides a comprehensive operational energy policy and promotes the development and acquisition of equipment that enhances energy security and energy resiliency as well as energy conservation and reduces logistical vulnerabilities.

**Infrastructure Authorities:** Includes a provision that will authorize the use of working capital funds for minor military construction projects at industrial base facilities under the jurisdiction of the Department.

**Force Protection and Safety:** Includes a provision that authorizes the Secretaries of the military departments to use up to \$35.0 million each to carry out military construction projects to enhance force protection and safety on military installations.

## **Civilian Personnel**

Direct hire:

- Allows the direct-hiring of undergraduate and graduate students across the entire federal government, limited to 15% of entry-level new hires.
- Allows the direct-hiring of undergraduate and graduate students in the Department of Defense, limited to 25% of entry-level new hires.
- Allows the Secretary of Defense to direct-hire professionals into cyber security, acquisition, and depot-level maintenance and science and technology positions.
- Allows the Department of Defense to directly hire financial experts to assist with the DOD audit mission.

Temporary and term appointments: Does not extend the timelines for temporary appointments from a maximum of 1 year to a maximum of 3 years. Also does not extend the timeline for a term appointment to a maximum of 6 years.

Replacing civilians with military service members: Requires the Department of Defense to consider the full costs of substituting a civilian employee with a military service member, before a conversion is complete.

Does not require the Office of Personnel Management (OPM) to issue an annual report to Congress related to the use of official time by federal employees.

## **Intelligence & Emerging Threats Provisions**

### **Cyber**

- Pilot program authorizing the Department of Defense to provide technical experts to the Department of Homeland Security to increase cooperation and capabilities for defending and responding to cyberattacks and enhance cooperation, collaboration, and unity of government efforts in support of the protection of critical infrastructure.
- Authorizes the National Command Authority to deter, disrupt, and defeat ongoing active, systemic cyber campaigns from the Russian Federation, People's Republic of China, Democratic People's Republic of Korea, or Islamic Republic of Iran, including those campaigns attempting to influence American elections and democratic political processes. State that the President needs to address the cyber campaigns of state-actors, especially those aimed at our democracy.
- Affirms the Secretary of Defense's authority to conduct clandestine operations in cyberspace, *when appropriately authorized*, and recognizes activities like force protection in cyberspace as traditional military activities.
- Establishes a Cyberspace Solarium Commission to develop recommendations on a strategic approach to defending the U.S. in cyberspace against cyberattacks of significant consequence.
- Establishes it as policy of the United States with respect to matters pertaining to cyberspace, cybersecurity, and cyber warfare that states the U.S. should use all instruments of national power to deter adversaries in cyberspace. Also requires an update to the Presidential Policy on cyber submitted to the Congress pursuant to the FY 18 NDAA, which the conferees note was insufficient.
- Requires the Secretary of Defense and Secretary of Homeland Security to study and report to Congress on the feasibility, advisability, and necessity, of establishing cyber civil support teams resourced by the federal government but operationally controlled by the governor of each state or territory.
- Requires the Department of Defense to establish procedures for notifying Congress of cybersecurity breaches resulting in the loss of personally identifiable information (PII) of servicemen and women, and notify Congress of the loss, theft, or compromise of uncontrolled classified information. This is in response to the recent cybersecurity breach of a defense contractor that resulted in the theft of Navy weapons system information.

- Incorporates the Defense Digital Service (DDS) into pilot program authorities for identifying new, innovative methodologies, or engineering approaches to evaluate cyber vulnerabilities of DOD critical infrastructure based on the success of the Defense Digital Service's "Hack the Pentagon" program. Encourages DOD to use this or similar DDS activities to more rapidly and effectively improve the cybersecurity of government owned and operated facilities.
- Requires that the justification materials submitted to Congress by the Secretary of Defense in support of the President's annual budget request for the Department of Defense include a consolidated display for cyber vulnerability evaluations and mitigation activities for each major weapon system beginning in fiscal year 2021. The display for each major weapon system shall include the status of, funding required, and a description of planned activities to continue or complete the cyber vulnerability evaluations in accordance with the FY 16 NDAA, and necessary mitigation activities for the Future Years Defense Program.
- Requires DOD to assess the transfer of DOD Cyber Defense (DODIN) mission from DISA to CYBERCOM, for purposes of strengthening command and control, and defending DOD networks.
- Increases funding for the DOD Cyber Scholarship Program by \$10 million and includes a provision to require consideration of an applicant's attendance at a Historically Black College or University, or other minority-serving institution.
- Requires the Secretary of Defense to submit a report to Congress on the feasibility of establishing a Cybersecurity Apprenticeship Program to support on-the-job training for cybersecurity positions and to further the acquisition of cybersecurity certifications.
- Requires the Secretary of Defense to improve awareness of cybersecurity threats among universities and small and medium-sized manufacturers in the defense industrial supply chain.

### **Counterterrorism, Countering Adversarial Influence, Countering Weapons of Mass Destruction and Operational Authorities**

- Strengthens Congressional oversight over sensitive military operations.
- Authorizes the Secretary of Defense to designate, from among the personnel of the Office of the Secretary of Defense, a Principal Advisor on Countering Weapons of Mass Destruction (CWMD). Requires a plan for realigning, restructuring, or reducing the current CWMD oversight framework of the Office of the Secretary of Defense. Increases unity of effort for policy, programs, and activities across the DoD for countering WMD.
- Clarifies and improves upon annual reporting of civilian casualties in connection with U.S. military operations.

- Requires the Secretary of Defense to designate a senior civilian official for civilian casualties in connection with U.S. military operations to develop, coordinate, and oversee compliance with policy and report to Congress on policies. This official will also be responsible for improving public mechanisms for civilian casualty reporting.
- Includes a Sense of Congress that United States military commanders should, consistent with applicable laws, regulations, and guidance engage with and provide logistical support to covered non-federal entities, including Spirit of America, to advance the military missions of the Armed Forces. Also includes a finding that Spirit of America has made an important contribution in supporting the missions of deployed U.S. personnel around the world.
- **Niger-related provisions**
  - Requires the Under Secretary of Defense for Policy to conduct a review of the legal and policy frameworks associated with advise, assist, and accompany missions by United States Military Personnel.
  - Requires a report from the Secretary of Defense on missions, operations, and activities of the Department of Defense in Niger that includes a description of the implementation of the Niger investigation recommendation to date and measures to mitigate operational risks to troops.

### **Special Operations Forces**

- Makes necessary modifications to the Special Operations Family Support Program authority to provide for SOF and their families, and increases funds from \$5 million to \$10 million.
- Limits the availability of funds authorized to be appropriated by this Act, or otherwise made available for fiscal year 2019, until the Secretary of Defense provides a report to the congressional defense committees on the Department of Defense Global Messaging and Counter Messaging (GMCM) program to ensure the GMCM is aligned with other information operations activities and efforts in the Department.
- Directs the Secretary of Defense, in coordination with the Secretaries of the military departments, to conduct a comprehensive review of the ethics and professionalism programs of the U.S. Special Operations Command (SOCOM) and the military departments for officers and other military personnel serving in Special Operations Forces. Requires the Secretary of Defense to submit the review to the Committees on Armed Services of the Senate and the House of Representatives by March 1, 2019, to address misconduct in the force and to maintain a culture conducive to SOF ethos.
- Requires implementation of congressional direction with respect to the roles and responsibilities of Office of the Assistant Secretary of Defense for Special Operations (ASD SOLIC) and Low Intensity Conflict as a service-like secretary to SOCOM.

- Requires ASD SOLIC and the Commander of SOCOM to conduct a comprehensive review of SOCOM for the purpose of ensuring that the institutional and operational capabilities of Special Operations Forces are appropriate to counter future threats across the spectrum of conflict.

## **Science & Technology**

- Does not include the Senate proposal to provide directive authority to the Under Secretary of Research and Engineering, as the conferees note the Secretary of Defense may grant that authority, and to maintain service authority over budgets and unique warfighting requirements.
- Extends the directed energy prototype authority provided for in the FY 17 NDAA through fiscal year 2019.
- Requires the Secretary of Defense to provide to the congressional defense committees a briefing and plan for using quantum sciences for military applications and other purposes.
- Directs the Secretary of Defense to develop a National Security Science and Technology Strategy to prioritize Department of Defense science and technology efforts and investments.
- Directs the Secretary of Defense to submit a plan to the congressional defense committees by March 1, 2019, for the sustainment, elimination or transfer of the functions of the Strategic Capabilities Office (SCO) to another organization or element of the Department of Defense for purposes of institutionalizing the innovation, lessons learned, and best practices of SCO.
- Strengthens congressional notification and approval for use of Other Transaction Authority for the award of follow-on production contracts, to increase prudent use of OTAs while maintaining the flexibility and agility of these tools.
- Directs the Under Secretary of Research and Engineering to establish an Artificial Intelligence and Machine Learning Policy and Oversight Council to continuously improve research, innovation, policy, joint processes, and procedures that facilitate the development, acquisition, integration, advancement, and sustainment of Artificial Intelligence and Machine Learning throughout the Department of Defense.
- Establishes an independent Artificial Intelligence Commission in the executive branch.
- Provides DIUx and the Strategic Capabilities Office with hiring authorities to access talent in the private sector.
- Authorizes counter-UAS cooperative research and development with Israel for countering unmanned aerial vehicles.

- Limits funds until a strategy is delivered to Congress on high energy laser development as required in previous bills.

### **Notable funding additions:**

Adds \$10 million for Historically Black Colleges and Universities

Artificial Intelligence:

- Invests in Service-level AI initiatives (Battlespace knowledge, Common Op Picture, and Readiness/Mx/Sustainment activities)
- Adds \$10 million for and AI National Security Commission

Adds \$ 40 million for railgun development

Authorizes \$100 million to extend directed energy prototyping

Adds \$10 million for High Performance Computing modernization

Adds \$25 million for undersea and unmanned aerial warfare academic research

- Additional investment in maritime robotics, autonomous systems, and energy storage technology

### **Tactical Air & Land Provisions**

- JSTARS: Restriction on retirement of legacy JSTARS aircraft, but no mandate to continue JSTARS Recap program.
- F/A-18 E/F: Authorization for F/A-18 E/F multiyear contract.
- Physiological episodes: Provisions requiring upgrades and certifications regarding physiological episodes for Air Force and Navy aircraft with minor changes.
- F-35 Oversight: Limitation on F-35 software upgrades pending cost and schedule information.
- M2 Bradley Vehicle Transmission upgrades: Limitation on noncompetitive M2 Bradley transmission updates.
- Air Force AOC 10.2 software: 20% funding limit pending report on cost, schedule, and risks.
- Cruise Missile Defense: Requirement for DOD certification and Army deployment of cruise missile defense capability, subject to appropriations.
- Selected funding issues (and amounts relative to President's Budget request):
  - 18 x AH-64 Apache new build (+6 from PB / +\$168 mil)
  - 54 x UH-60M Blackhawk (+5 from PB / +\$85 mil)
  - 69 x Stryker A1 upgrades (+66 from PB / +\$203.4 mil)
  - 39 x Paladin PIM artillery systems (+9 from PB / +\$110.0 mil)
  - 95 x M1 Abrams upgrades (Same as PB)
  - 131 x AMPV vehicles (Same as PB)
  - 77 x F-35 (48 x F-35A, 20 x F-35B, 9 x F-35C, same as PB)
  - 24 x F/A-18 E/F (Same as PB)

- 8 x CH-53K (Same as PB)
- 7 x V-22 (Same as PB)
- 1 x EQ-4 BACN (+1 from PB / +\$105 mil)
- 31 x MQ-9 (+2 from PB / +\$56 mil)
- 2 x OC-135 “Open Skies” aircraft (Same as PB)

### **Seapower & Projection Forces Provisions**

Funds the 10 ships included in the fiscal year 2019 budget request, including two *Virginia*-class submarines, three DDG 51 *Arleigh Burke* destroyers; one Littoral Combat Ship (LCS); two T-AO 205 oilers; one Expeditionary Sea Base (ESB); and one T-ATS towing, salvage, and rescue ship. In addition, the mark adds three battle force ships, including one *Ford*-class aircraft carrier and two additional LCS for a total of 13 ships.

Specifically authorizes the procurement of CVN-81, the fourth *Ford*-class aircraft carrier.

Adds over \$200 million for the submarine industrial base to support the *Columbia* and *Virginia* class submarine programs.

Adds additional funds for long-lead time material for the LPD Flight II amphibious ship.

Authorizes the multiyear procurement associated with the SM-6 missiles at a rate of 125 missiles per year.

Adds additional funds for critical enablers including LRASM, Tomahawk, MK-48 heavyweight torpedoes, and sonobuoys.

Authorizes the multiyear procurement of E-2D Advanced Hawkeye and C-130J Super Hercules aircraft.

Fully funds the amount requested in the FY 2019 budget for the B-21 Raider program.

Establishes a floor of 479 air refueling tanker aircraft in the Air Force inventory subject to the results of the Mobility Capability and Requirements Study 2018.

Requires the Navy to incorporate the MQ-25 unmanned air vehicle (UAV) on the USS *George Washington* CVN-73 to ensure that our only forward deployed carrier is equipped with the first carrier based UAV.

Fully funds the VC-25B Presidential Recapitalization Aircraft program.

Adds additional funds for the propulsion and propeller upgrades of Air National Guard and Air Force Reserve C-130H airlift aircraft.

Retains the hospital ship USNS *Comfort* (T-AH-20) until a replacement capability can be developed.

Limits the Navy from procuring more than two used sealift ships unless it is done concurrently with a new build program for sealift ships.

Recommends an increase in Maritime Security Program (MSP) funding to ensure retention of 60 MSP vessels.

## **Strategic Forces Provisions**

### **Nuclear weapons and nuclear non-proliferation**

To support the recommendation of the Trump Nuclear Posture Review, authorizes \$65 million for developing and producing a low-yield warhead to be carried on a submarine launched ballistic missile, breaking with decades of tradition on how SSBNs have been used, increasing focus on low-yield nuclear weapons, lowering the threshold for using nuclear weapons, and increasing the risk of miscalculation. Further repeals a 15-year prohibition on developing and producing low-yield nuclear warheads absent congressional authorization but requires authorization of appropriations by an act of Congress to develop or modify nuclear warheads.

Expresses a sense of Congress supporting the Trump Nuclear Posture Review.

Adds \$163 million above the budget request level for the National Nuclear Security Administration's (NNSA) nuclear weapons activities, including \$103 million for inertial confinement fusion activities. Also adds \$12 million for core nuclear nonproliferation programs.

Requires development and implementation of a plan to accelerate the acquisition of the Long-Range Stand-Off (LRSO) weapon and the new Ground-Based Strategic Deterrent (GBSD), and adds \$154 million in funding beyond the \$960 million budget request.

Prohibits DOD from using FY19 funds to reduce the number of Intercontinental Ballistic Missiles (ICBMs), or reducing their level of alert for a nuclear launch.

Prohibits funding for retaining the option for or developing a mobile variant of the GBSD through FY 2020.

Drops controversial Senate provision that would have made NNSA more independent from the Department of Energy, and weakened health and safety oversight.

Drops Senate provision that would have made permanent NNSA's pay-for-performance personnel system.

Drops the congressional requirement that had prevented the Air Force from retiring the conventional air-launched cruise missile, which was going to cost over \$300 million to maintain, and delay the congressional mandate that the LRSO have a conventional variant.

Requires an independent report on the risks and benefits of increasing Presidential decision-making time for using nuclear weapons.

Extends the required annual report on the 10-year funding profile of the Department of Defense's nuclear weapons modernization plans (established in the FY12 NDAA) through FY 2023.

Authorizes \$10 million for feasibility work on low-enriched uranium naval reactor fuel.

Requires NNSA to ensure that the use of blood irradiation devices in the US that rely on cesium chloride by 2027.

Retains the FY18 national defense authorization waiver authority to allow termination of MOX and funds MOX at the budget request level of \$220 million, the dropping House bill's addition of \$115 million.

Requires an independent review of NNSA's analysis of alternatives for selecting a location for pits production and requires certifications and updates on the plan to increase pit production; also mandates a detailed plan to produce pits at Los Alamos National Laboratory if pit production at Savannah River Site, SC is not operational by 2030.

Prohibits using funding in Russia for nuclear threat reduction programs, but includes waiver authority in case of an emergency.

### **Nuclear Cleanup and Nuclear Waste**

Requires notification of whether the Secretary of Energy has imposed civil penalties on contractors for violations of Department of Energy rules, regulations, and orders relating to nuclear safety and radiation protection, and requires the Secretary of Energy to define a "chilled work environment."

Zeroes out defense funding for Yucca Mountain waste repository.

Extends Hanford waste tank clean-up program until 2024 and authorizes an additional \$50 million for Hanford site clean-up.

Requires briefings to Congress on the vapor problems at the Hanford Site.

Requires prompt congressional notification in the case of air release of radioactive or hazardous contamination at Hanford.

### **National Security Space**

Establishes U.S. Space Command as a new sub-unified command within U.S. Strategic Command, to ensure joint space warfighting receives the resources and emphasis that it needs.

Requires the Department of Defense to divest itself of the responsibility to provide space situational awareness notification to commercial entities, and requires a plan for transferring this role to non-defense agency.

Directs the Deputy Secretary of Defense to develop a plan to establish a separate alternative acquisition system for defense space acquisition, and also to develop a plan to enhance acivilian and military space cadre, but drops the requirement to establish a new numbered Air Force dedicated to space warfighting. Also requires a plan on space warfighting policy and readiness.

To deter attacks on GPS signals and satellites, requires inclusion in GPS receivers of the capability to receive European Galileo and Japanese QZSS signals to increase U.S. resilience of the positioning, navigation, and timing capability beginning with current terminals under development, but allows waiver for national security contingent on a plan and timeline for future integration of this capability. Also requires inclusion of capability to receive non-allied signals if benefits outweigh risks.

Fences funding until the Deputy Secretary certifies that the Air Force has contracted for operationalizing best-in-breed commercial space situational awareness processing software.

Requires designation of lead entity to coordinate common solutions for M-code modernization, integration, testing and procurement efforts, and requires congressional updates through 2021.

Requires the Secretary of Defense to designate a component of DOD to be responsible for coordination of information relating to using commercially hosted payloads.

Requires consideration of both reusable and expendable launch vehicles and requires a related risk and cost impact analysis.

Subject to appropriations, mandates acceleration of a conventional prompt strike operational capability and requires a report addressing ambiguity concerns.

## **Missile Defense**

Prohibits funding for lot 1 of the Redesigned Kill Vehicle, which the Missile Defense Agency (MDA) is planning to purchase before any flight testing occurs, but allows the Secretary of Defense to waive the prohibition.

Subject to appropriations, requires the director of the MDA to establish a boost-phase intercept program using kinetic interceptors, and initiate development of a missile defense tracking and discrimination space sensor layer. Requires an independent assessment of a concept proposal for this capability.

Requires the MDA to provide unclassified information relating to the schedule for planned missile defense tests.

Requires the Secretary of Defense to submit a report following release of the Ballistic Missile Defense review (BMDR) that address implications of recommendations for costs and strategic stability, and requires an independent CBO review on costs of the BMDR recommendations.

Requires the director of the MDA to continue development for the Homeland defense radar in Hawaii to deliver an operational capability in fiscal year 2023.

Authorizes multi-year procurement for SM-3 IB missiles.

Provides the amount requested in the budget request of \$500 million for Israeli Missile Defense co-development and co-production of the Iron Dome, David's Sling, and Arrow weapon systems, and includes a sense of Congress supporting U.S.-Israel missile defense cooperation.

Directs the Army to ensure the Lower Tier Air and Missile Defense Sensor performance specification (PSPEC) clarify requirements and to utilize evaluation criteria that enables understanding of the cost/value of procuring this advanced capability.

Makes permanent the requirement for the MDA to submit an annual list of unfunded priorities.

In the accompanying report, requires a Missile Defense report on missile defense counter-measures test program, including addressing recommendation of a JASON Defense Advisory Panel study.

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