



United States House of Representatives

## HOUSE ARMED SERVICES COMMITTEE

DEMOCRATIC PRIORITIES IN THE FY20 NDAA

This first NDAA under the new Democratic majority secures a strong national defense that is built on Democratic principles and advances American values. The bill as reported out of committee underpins a **smart defense posture with a tough stance on Russia** and **continued collaboration with allies**, **eliminates wasteful spending**, **promotes a more inclusive military** by reinforcing the values of diversity, STEM and integration, and **solidifies Congress' oversight role** of defense programs and the authorization to use of military force.

In addition to executing Congress' important constitutional obligation to "provide for the common defense," the FY20 NDAA also outlines several provisions that **take care of the single most valuable asset in our national defense strategy: Our service members.**

### REJECTS THE PRESIDENT'S ARBITRARY TOPLINE

- **This is the first time in history that HASC has cut \$17 billion from the President's Budget.**

### BLOCKS WALL FUNDING AND REFORMS BORDER DEPLOYMENT

- **Includes a blanket prohibition on funding for the construction of a wall, barrier, or fence along the southern land border.**
- Prohibits reprogramming of funds into the counter drug account, which has been used by the Administration to do construction along the southern land border.
- **Does not include the \$7.2 billion requested by the Administration to backfill MILCON projects and/or forward fund portions of the wall.**
- Eliminates the current authorization for the construction of fences to block drug smuggling corridors.
- Modifies an authority the DoD uses when deploying active duty personnel to the border to:
  - Require all support to be reimbursable; and
  - Require a waiver that the deployment won't affect readiness, the support task aligns with the unit's mission, the task is inherently government and can't be contracted.
- Amends the emergency construction authority (10 USC 2808) to **limit the total cost of military construction projects undertaken during a national emergency to \$500.0 million**, with a further limit of \$100.0 million for construction projects within the United States and would add elements to required congressional notifications.

### PROTECTS CHILDREN AT THE BORDER

- **Prohibits DoD funds to house unaccompanied alien children forcibly separated from their parent or legal guardian** by Customs and Border Protection near a port of entry or within 100 miles of the border of the United States.
- **Requires DoD to submit a certification that any housing provided to unaccompanied alien children meets the standards of the Department of Health and Human Services**, including those provided in the Flores settlement agreement, any waivers or exceptions to those standards, and identifies any environmental hazards and actions to mitigate those hazards.





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### TAKES CARE OF MILITARY FAMILIES

- Authorizes the Secretary of Defense to pay a basic needs allowance to a qualified service member thereby **bridging the gap for those that may not qualify for SNAP**.
- Requires the Secretary concerned to **increase the maximum reimbursement amount to \$1,000** and to do an analysis to determine if the maximum reimbursement amount **for State licensure and certifications of a spouse** is sufficient to cover the average costs of relicensing.
- **Provides occupational support to military spouses** by improving the portability of occupational licenses through interstate compacts and amending residency laws pertaining to registering a business.
- **Authorizes financial assistance to civilian child care providers** who care for the **children of survivors of members who die in the line of duty** and to expand direct hiring authority for child care providers.
- **Authorizes \$40.0 million for assistance to local educational agencies with military dependent students** and \$10.0 million for local educational agencies eligible to receive a payment for children with severe disabilities. Directs DoD to conduct a study to assess the needs of military families with children with special needs to ensure they receive the best education.

### CLIMATE CHANGE

- **Requires DoD to develop installation master plans** that assess current climate vulnerabilities and plan for mitigating the risks.
- Limits DoD's ability to spend planning and design funds until it initiates the process of amending the building standards for military construction to ensure that building practices and standards promote energy, climate, and cyber resilience at military installations.
- **Requires DoD to report on the feasibility of transitioning installation planning from 100-year floodplain data to a forward-looking predictive model that takes into account the impacts of sea-level rise.**
- **Requires all proposals for military construction projects to consider potential long-term changes in environmental conditions**, and increasingly frequent extreme weather events, as well as, industry best-practices to withstand extreme weather events.
- **Requires DoD to report on progress towards meeting the goal of 25% renewable energy for military facilities by 2025.**
- Authorizes an additional \$40 million for the Department's Energy Resilience and Conservation Investment Program.
- **Directs the Secretary of Defense to develop a climate vulnerability and risk assessment tool** to assist in providing standardized risk calculations of climate-related impacts to military installations and capabilities.





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### ADDRESSES MILITARY HOUSING ISSUES

- **Requires the military services to establish a tenants' bill of rights** for residents of privatized military family housing.
- Requires the Secretary of Defense to **develop an assessment tool to identify and measure health and safety hazards in housing.**
- **Prohibits the use of non-disclosure agreements** in connection with entering into, continuing, or terminating a lease for on-base military housing.
- **Authorizes an additional \$140.8 million to hire additional civilian personnel to improve oversight and management of military family housing.**
- **Creates a public database for complaints related to military housing**, requires annual financial audits of randomly selected privatized military family housing, and annual congressional reports on the condition, maintenance, and management of privatized military family housing.

### WATER CONTAMINATION: PFOS, PFOA, AFFF

- **Prohibits the release of fluorinated firefighting foam (AFFF) at military installations except in cases of emergency response or in limited circumstances.**
- Requires the Secretary of Navy to complete a new military specification by January 2025 for a fluorine free firefighting agent to be used at all DoD installations and a complete ban on fluorinated foams on military installations by September 2029, or sooner if possible.
- Authorizes the National Guard to access Defense Environmental Remediation Account funds, for five years, for the limited purpose of addressing PFOS and PFOA exposure and contamination.
- **Prohibits the use of fluorinated AFFF in training exercises** and encourages the Department to ensure adequate training for individuals in regular contact with AFFF about the potential dangers associated with PFOS and PFOA.
- **Requires a report on the Department's understanding of best-practices for cleanup and disposal of PFOS and PFOA.**
- **Provides an additional \$121.3 million in environmental restoration accounts** for remediation activities related to perfluorinated chemicals in drinking water on or near military installations.
- Blood test for DoD firefighters.
- **Authorizes DoD to provide fresh water and treatment of contaminated water for agricultural purposes** adjacent to a military installation where water is contaminated due to military activities.





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## **HOUSE ARMED SERVICES COMMITTEE**

DEMOCRATIC PRIORITIES IN THE FY20 NDAAs

### **ACCELERATES CLOSURE OF GUANTANAMO BAY DETENTION FACILITY**

- **Bans any new detainees, including U.S. citizens, being placed in Guantanamo for law of war detention or a military commissions proceeding.**
- **Eliminates arbitrary statutory restrictions on transfer of detainees from Guantanamo Bay,** which have consistently harmed efforts to provide medical care and hindered the Obama Administration's ability to close the facility. Allows medical transfers of detainees to the United States by eliminating the restrictions.
- Does not include any restrictions on detainee transfer from previous NDAs, with the exception of a prohibition that was added by amendment on transfers to Yemen, Syria, Somalia, Libya, Iran, Cuba, North Korea, Russia, Venezuela, Guatemala, Honduras, El Salvador, and Mexico.
- **Does not fund the President's Budget request for an \$88.5 million new permanent detainee complex** and requires DoD to study alternatives.
- **Seeks to re-start the repatriation process out of Guantanamo Bay,** requiring the Trump Administration to explain why it has not transferred the five individuals who have been cleared for transfer out of Guantanamo, demanding answers regarding the future of the repatriation and Periodic Review Board process, and its plans for the future of the repatriation process.
- **Requires an independent study on medical care at Guantanamo,** including recommendations for any necessary statutory changes, in order to determine the state of medical care, the appropriate standards of care, and whether any arbitrary restrictions exist that are impeding the quality of care.
- **Expresses a sense of Congress on the necessity of adequate medical care at Guantanamo** and the United States ongoing obligation to provide adequate care.





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### DIVERSITY IN THE MILITARY

- **Improves Research Capacity at HBCUs:** Forms the National Security Commission on Defense Research at HBCUs and other Minority Institutions to address inequality in defense funding provided to universities. Additionally, it will require an assessment of university subcontracts with HBCUs as part of the evaluation of the award of future research grants. The provisions are supported by UNCF, TMF, and NAFEO.
- **White Nationalism and Extremism in the Military:** Requires DoD to update the workplace and equal opportunity and workplace and gender relations surveys to include experiences with supremacist activity, extremist activity, or racism.
- **Racially Insensitive Terminology in DoD Forms:** Includes Mr. Hastings' requirement that DoD review their forms for racially insensitive terms and develop a modernization plan to address identified issues.
- **Diversity and Inclusion in Military Leadership:** Requires DoD to issue a new diversity and inclusion strategy to ensure minorities are more fully represented in the officer corps.
- **DoD Mentor-Protege Program:** Provides permanent authorization for the DoD Mentor-Protege program that encourages the growth of disadvantaged business enterprises through partnerships with established defense contractors.
- **Increase to the HBCU/MSI program:** Funding for the HBCU/MSI program is increased to \$50.7M, a \$20M increase over the President's Budget and a \$10M over the FY2019 authorization. The program funds scholarships and research opportunities for minorities. Additionally, the bill reinforces the importance of minorities to defense research, to include explicit language supporting minority women.
- **Funding for ROTC at HBCUs:** Funds the Reserve Officer Training Corps, which includes programs at more than 20 HBCUs.
- **Requires Marine Corps to gender integrate basic training at Parris Island within five years and San Diego within eight.**
- **HBCU/MI Subcontracting:** Require DoD to ensure that the system used by the Federal Government to monitor or record contractor past performance for a grant or contract awarded to an institution of higher education includes incentives for the award of a sub-grant or subcontract to minority institutions.





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### PROTECTS AGAINST NUCLEAR CATASTROPHE

#### Low Yield Nuclear Warheads

- Prohibits deployment funding for low-yield nuclear warheads for FY20.

#### Nuclear Weapons Account

- Reduces requested funding for NNSA nuclear weapons programs by \$608 million.

#### Plutonium Pits for Nuclear Weapons

- Repeals the requirement to demonstrate plutonium pit production of at a rate of 80 pits/year by 2027. **Prioritizes producing 30 plutonium pits per year by 2026.**

#### Nuclear Safety

- Clarifies the Defense Nuclear Facilities Safety Board's authorities by providing prompt and unfettered access to defense nuclear facilities for independent nuclear oversight.

#### Reduces the Risk of Miscalculation

- Requires an independent **study on the policy of no-first-use of nuclear weapons.**
- Requires a report from the Secretary of Defense on military-to-military dialogue with foreign countries to **reduce the risk of miscalculation, unintended consequences, or accidents that could precipitate a nuclear war.**

#### New ICBM Missile (GBSD) and Warhead (W87-1)

- Cuts \$103 million from the Ground-Based Strategic Deterrent, cuts \$59M from related warhead and fences remaining funding for the warhead until the National Nuclear Security Administrator submits an analysis of alternatives with respect to replacing the ICBM W78 warhead.
- Requires an independent technical study of the W78 replacement and potential problems.

#### Long Range Stand Off Weapon (LRSO)

- Repeals the conventional requirement.

#### NC3

- Increases funding for Nuclear Command, Control and Communications.

#### Treaties

- **Facilitates implementation of the Open Skies Treaty and prohibits funding for withdrawal unless Russia is in material breach or DoD/State provide a certification that withdrawal is in best interest of national security and have consulted with US allies.**
- **Limits funds until DoD provides a report on the Intermediate-Range Nuclear Forces Treaty and the New START Treaty.**





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### BIRTH CONTROL PARITY

- The ACA parity provision will **eliminate all cost-sharing for any contraception services** obtained through TRICARE Prime and TRICARE Select.
- It also **eliminates all copayments for contraceptive pharmaceuticals** provided through the TRICARE pharmacy benefit.
- Improves **access to emergency contraception for survivors of sexual assault.**

### LABOR

- Changes the probationary period for DoD federal civilian employees from 2 years to 1 year. This makes the probationary period for DoD federal employees the same as the rest of the federal government civilian employees.
- Clarifies that DoD civilians may not be managed on the basis of man-years, end strength, or full-time equivalent positions, or maximum number of employees, and instead will be managed based on the total force management policies and procedures, the workload required to carry out the functions and activities of the Department, and the funds made available to the department for each fiscal year.
- Provides a one-year extension of authority to grant allowances, benefits, and gratuities to civilian personnel on official duty in a combat zone and a one-year extension on the authority to provide premium pay for Federal civilian employees working overseas.
- **Adds workplace harassment and discrimination protections for unpaid Federal government interns, strengthens Federal anti-discrimination laws enforced by the Equal Employment Opportunity Commission, and expands whistleblower protections for civilian employees.**
- Requires a report on the security clearance investigation and adjudication backlog and what reforms are being put in place to reduce these backlogs while ensuring a high-quality security clearance process.
- Consolidates direct hiring authorities and requires a Federally Funded Research and Development Center to evaluate steps that can improve the competitive civilian hiring process.

### AUDIT AND FISCAL RESPONSIBILITY

- **Requires an annual report ranking each of the military departments and Defense Agencies in order of how advanced they are in achieving unmodified audit opinions.** Departments and Agencies ranked in the bottom quartile are required to submit an additional report describing a plan for remediation. Those departments and Agencies have leadership travel funding fenced pending submission of their remediation plans to Congress.
- **Requires the DoD to submit a plan for achieving an unmodified audit opinion within five years.** OSD travel funding is fenced pending submission.





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### GROSS HUMAN RIGHTS VIOLATIONS

- Requires an annual report on whether DoD provided equipment has been transferred to a unit that has committed a gross human rights violation or is otherwise prohibited from receiving assistance.

### EX GRATIA PAYMENTS

- Does not reauthorize the Commanders' Emergency Response Program (CERP)
- Realigns \$5 million under the former program known as the CERP for ex gratia (condolence) payments for the following countries: Afghanistan, Iraq, Syria, Somalia, Libya, and Yemen.
- Allows the U.S. military to pay for damages done during combat operations where U.S. led investigations determine the U.S. caused damage or loss of life.

### RUSSIA & EUROPE

- **Requires briefings to Congress on Russian election interference and efforts to disrupt U.S. alliances**, along with a DoD strategy to counter Russian election interference in advance of the 2020 elections.
- **Moves the European Deterrence Initiative (EDI) from Overseas Contingency Operations (OCO) to the base budget and provides new mechanisms to enhance transparency and strengthen Congressional oversight.**
- **Urges the Secretaries of Defense and State to explore updates to arrangements with Russia aimed at reducing the risk of miscalculation and unintended escalation**, including incidents on the high seas, accidents in the air, and misinterpretation of military exercises.

### TURKEY

- **Prohibits the transfer of an F-35 aircraft or related materials to Turkey if Turkey takes possession of the S-400 air defense system.** Allows a waiver if Turkey were to take possession of an S-400 and then later abandon it.





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### **TACTICAL AIRCRAFT**

- Enhances Congressional oversight and cost transparency associated with F-35 Block 4 development, F-35 reliability and maintainability goals, F-35 life-cycle costs, and addressing Autonomic Logistics Information System deficiencies and capability shortfalls.
- Supports economic order quantity and buy-to-budget authority for the F-35 program.
- **Enhances congressional oversight and cost transparency associated with the F-15EX development and procurement program.**
- Continues oversight of the Department's plans and efforts to mitigate physiological incidents in tactical aircraft.
- **Enhances congressional oversight of the CH-53K King Stallion helicopter program.**
- Requires a strategic plan and modernization roadmap for Army aviation to ensure alignment between requirements and budget requests.
- Requires specific program documentation related to the Air Force's Advanced Battle Management System to ensure effective congressional oversight.
- Prohibits retirement of RC-135 aircraft unless the Secretary of Defense certifies that equivalent technology exists to meet the RC-135 ISR missions.
- Requires the Army to provide quarterly briefings on the status and progress of the Optionally Manned Fighting Vehicle program
- Requires select combatant commanders provide an assessment of the plans of the Navy and Air Force to provide a combination of fifth generation and advanced fourth generation tactical aircraft capabilities to meet operational requirements.
- Requires Secretary of Defense provide a report on the integration of emerging long-range ground-based fires to counter land and maritime threats.





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### MILITARY ENGAGEMENTS IN THE MIDDLE EAST

#### Iraq, Syria, and Iran

- **Requires stricter Congressional oversight of U.S. military activity in Iraq and Syria.** Fences funding if DoD fails to provide all past, overdue reports related to U.S. military activities in Iraq and Syria by January 1, 2020 and requires DoD to consult with the Government of Iraq on its activities in Iraq.
- **Directs DoD to report to the Committee on all of the U.S. military's activities in Syria,** and the conditions the Department is seeking to achieve before withdrawing U.S. forces.
- **Includes a rule of construction that nothing in this Act or any amendment made by this Act may be construed to authorize the use of military force against Iran.**

#### Afghan SIV

- Returns eligibility to original requirements specified in the 2009 Afghan Allies Protection Act. Eligibility was made too restrictive over the years, preventing some who have “faithfully served the USG” from qualifying for the program.
- **Increases the number of visas by 300.**

#### Afghan Security Forces Fund

- Authorizes \$4.5 billion to fund the Afghanistan National Defense and Security Services
- Sets a goal of \$45 million on programs that promote the recruitment and retention of women in the Security Forces

### OVERSIGHT AND ACCOUNTABILITY

- **Requires the Secretary of Defense to provide** to the chairman and ranking member of each of the congressional defense committees, and their designated staff with the appropriate security clearance, **copies of each execute order issued by the Secretary or by a commander of a combatant command before the date of the enactment of this Act,** and within 30 days of issuing an execute order after the date of the enactment of this Act.
- Makes permanent section 1264 of the National Defense Authorization Act for Fiscal Year 2018 (Public Law 115-91) that **required the President to submit a report to the appropriate congressional committee on the legal and policy frameworks for the use of military force and related national security operations.**
- **Modifies current reporting requirements regarding civilian casualties** by adding additional elements, such as an evaluation of the general reasons for discrepancies between DoD and other non-governmental reporting.
- Requires the Secretary of Defense to enter into an agreement with a federally funded research and development center for conduct of an independent assessment of the sufficiency of DoD standards, processes, procedures, and policy relating to civilian casualties resulting from United States military operations.

