



# NATIONAL DEFENSE AUTHORIZATION ACT

## **FACT SHEET: Highlights of National Defense Authorization Act For Fiscal Year 2016**

The National Defense Authorization Act (NDAA) for fiscal year 2016 is the primary way Congress meets its most important constitutional obligation to “provide for the common defense.” It advances the vital funding and authorities that America’s military requires. In an era of unprecedented threats, uncertainty, and technological change, the legislation ensures America’s Armed Forces are *agile, efficient, ready, and lethal*.

The House Armed Services Committee met on Wednesday, April 29<sup>th</sup> and passed H.R. 1735 out of the Committee, favorably to the full House of Representatives 60-2.

The House met on May 15<sup>th</sup> and passed H.R. 1735 out of the House favorably with a vote of 269-151.

The Senate met on June 18<sup>th</sup> and passed S. 1376 with a vote of 71-25.

### **Resources**

America’s prosperity is a strategic asset and one of our most important tools on the world stage. The Conferees know that as Congress provides our troops with the resources they need, we must also be sensitive to the limitations that deficits and debt have on our ability to meet global challenges.

To that end, the Conference Agreement is **consistent with the House Budget Resolution** which **meets the exact amount requested by the President**. The proposal cuts waste, reallocates resources to more urgent priorities, and makes long-needed reforms to ensure that America gets the most defense for its dollar.

The agreement authorizes **\$515 billion** in spending for national defense and an additional **\$89.2 billion** for Overseas Contingency Operations (OCO) for a total of **\$604.2 billion**. Excluding an additional \$7.7 billion for activities outside the committee’s jurisdiction, the total funding for national defense is equivalent to the **President’s total request for \$611.9 billion** in defense discretionary spending. As part of the Overseas Contingency Operations account, the proposal funds **\$38.3 billion** in Operation and Maintenance activities in support of base budget requirements for national defense.

**TABLE 1: FY16 NDAA FUNDING LEVELS**

<b>Purpose</b>	<b>Amount (\$ billions)</b>
DOD Discretionary Base Budget	496.4
DOE Discretionary Base Budget	18.6
<b>FY 16 Base Budget NDAA Topline*</b>	<b>515.0</b>
Overseas Contingency Operations**	89.2
<b>FY 16 Discretionary NDAA Topline</b>	<b>604.2</b>
Defense Mandatory Spending***	7.6
<b>FY16 NDAA Topline</b>	<b>611.8</b>

\*Does not include \$7.7 billion of authorizations not within HASC jurisdiction

\*\* Includes \$38.3 billion in O&M funding requested for base requirements

\*\*\* Includes statutory requirements for Concurrent Receipt; does not include \$0.6 billion of obligations outside HASC jurisdiction.

**Overseas Contingency Operations:** The agreement fully funds the President's request of \$50.9 billion for Overseas Contingency Operations (OCO). In order to comply with the Budget Control Act, as well as sustain our national defense capabilities, the agreement includes an additional \$38.3 billion for base requirements. These are specifically authorized, just as they were in the base budget. Examples of base requirements funded by OCO include **Airlift Operations, Combat Communications, Training Support, Depot Maintenance, Force Readiness, Operations Support, Army Prepositioned Stocks, and Logistics Operations.**

## Agile

**Acquisition Reform:** A dysfunctional acquisition system, top-heavy headquarters staffs, and imbalances in civilian and military workforces have combined to rob our Armed Forces of their agility to quickly adjust to emerging threats and maintain our technological edge in the face of rapid change just when they need it most. Today, we see countries like Russia and China taking advantage of rapidly-changing technology to reduce our military advantage, whether by deploying carrier-killing missiles, building radars that can detect stealth aircraft, or developing space weapons that threaten our satellites. Our defense must adopt new technologies and new ways of thinking to bring capabilities to bear more quickly than our adversaries. If we lose our technological edge, our warfighters will lose on the battlefield.

The Conference Agreement builds on robust oversight and consultation with all stakeholders to implement urgently-needed **acquisition reforms**. While much work remains to be done, these reforms are a robust first step towards a more agile and less wasteful system. The Conference Agreement includes much of H.R. 1597, the Agile Acquisition to Retain Technological Edge Act, sponsored by Chairman Thornberry and Ranking Member Adam Smith (D-WA). The Conference Agreement:

- **Reforms the Acquisition System** and streamlines the process, by advancing critical decisions to the initial stages, reducing the number of legal certifications while maintaining needed accountability, and empowering program managers and other DoD decision makers to make judgments in the best interests of our troops and the taxpayer. Reforms to DoD's acquisition strategy development include the consolidation of at least six separate reporting requirements into a single, living document. The Conferees also streamline the process of buying commercial items, reduce barriers to multi-year contracts, and non-traditional companies doing business with

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DOD, and require officials, including the Director of Operational Test and Evaluation, to consider cost and schedule when carrying out their duties.

- **Empowers the Workforce** by removing obstacles that make it difficult for top military talent to serve in acquisition roles; makes the Defense Acquisition Workforce Development Fund permanent; requires training on the commercial market, including on commercial market research; and expands ethics training for the acquisition workforce.
- **Reforms the Chain of Command** for acquisition decisions, improving a process currently mired in layers of bureaucracy and enhancing the role of the Service Chiefs.

For more on the HASC reform project, see: <http://www.armedservices.house.gov/index.cfm/defense-reform>

**Compensation and Benefits Reform:** An agile military depends on **recruiting and retaining the best**. More and more that means competing with the private sector, to bring in or to hold onto top talent. To compete successfully, the Department of Defense must offer benefits on par with or better than the private marketplace. The Conferees are grateful to the Military Compensation and Retirement Modernization Commission for its work in recommending needed reforms.

As Congress begins to **reform the compensation and benefits system**, it is also mindful of the potential for unintended consequences, and the need to continue to work with the Department to implement these important benefits.

The Conferees agreed on changes that provide additional options to individuals who serve the nation for a period of less than 20 years, while delaying implementation until 2018 to allow DoD and relevant stakeholders time for implementation. For the first time, this plan would allow the 83% of service members not eligible for military retirement to participate in a retirement plan. This system will allow new service members to **contribute to a portable Thrift Savings Plan** with matching contributions from DoD. The reform also preserves a structure that encourages service beyond 12 and then 20 years of service by maintaining the retirement annuity while adding the benefit of allowing a service member to take part of their retirement pay as an upfront **lump sum payment**. Those currently serving, and having less than twelve years of service, have the option of remaining grandfathered into the old system or choosing the new TSP option.

Recognizing the important benefit and value that commissaries offer military personnel and their families, the Conference Agreement also maintains the current structure of the commissary system, while allowing the Department of Defense the flexibility to explore innovations.

**Basic Allowance for Housing (BAH)** is another key element of military compensation and an important retention tool. The Conference Agreement preserves Basic Allowance for Housing for dual-military couples. To help maintain the tax-free BAH benefit in the long-term, the Conference Agreement preserves payments to cover 95 percent of estimated housing expenses, which is a 1% annual reduction per year for four years.

The Conferees also rejected more than 60% of the proposed increases to Tri-Care Pharmacy co-pays supported by the President and the Senate. Instead, the Conference Agreement includes modest adjustments to co-pays for brand name and generic medications, at the minimum amount necessary to offset the retirement program.

**Shaping the Workforce:** An agile military also efficiently **manages the workforce** and keeps the **size of headquarters** in balance with the force in the field. The Conferees support the efforts by the Department to reduce headquarters’ budgets and personnel by 20%, if those reductions are taken in a strategic manner, preserving critical competencies, such as depots and the acquisition workforce. However, it is not clear if these efforts are resulting in efficiencies, since the Department lacks a baseline from which to measure reductions against, as noted by the Government Accountability Office. The NDAA requires the Department of Defense to implement a plan to achieve not less than \$10 billion in cost savings between 2015 and 2019. Further, the agreement **requires a baseline** from which to hold DoD accountable and allows for the Department to credit-forward cuts that it already has made in accordance with the Secretary’s December 2013 Directive.

The Conferees share the concerns expressed by the Secretary of Defense and other current and former senior defense officials that they need additional tools and flexibility to shape the workforce and to retain the best and brightest, particularly under the current budgetary environment.

While the Conferees recognize that the Department’s missions and requirements have not decreased, and that we will need to preserve the necessary end strength and skill sets to meet the growing threat environment, they also recognize that DoD must do a better job balancing its “tooth-to-tail.”

**Efficient**

**Wasteful, Inefficient, or Poorly-Budgeted Programs:** While the Conference Agreement meets the President’s request for military funding, it also **cuts excessive or wasteful expenditures** and dedicates those resources to more urgent needs. Of particular note is the **Foreign Currency Fluctuation, Defense (FCF,D) Account**. While this fund serves an important function, it has been over-resourced for some time. In the FY15 NDAA, the House asked DoD to consider the current balance when determining future currency levels. The fund has been at its statutory limit of \$970 million since 2012. The current budget request failed to change how foreign currency rates are calculated. When the Department proposes to cut the Base Housing Allowance by \$400 million, it makes no sense to overcharge Operation & Maintenance and Military Personnel accounts by almost \$1.0 billion for foreign currency rates.

Another example is the Department’s budget request for fuel; in which it is relying on rates calculated in 2009 and adjusted for inflation rather than estimated market prices for the upcoming fiscal year. The NDAA re-directs these and other funds to higher priority programs.

**TABLE 2: Examples Of Reallocated Resources**

Savings Achieved	Resources Added
Excessive estimates for fuel - \$-1.7B	Additional 12 F/A 18-F Super Hornet Aircraft – Navy Unfunded Requirement - \$978.7M
Unobligated Balances - \$-1.6B	Additional 6 F-35B JSF Aircraft – Marine Corps Unfunded Requirement - \$846.0M
Foreign Currency adjustments - \$-1.4B	Restore Sustainment shortfalls - \$431.4M
Streamlining Management Headquarters - \$-1.3B	A-10 - \$466.7M
Long-Range Strike Bomber - \$-460M	Restoration of Sustainment shortfalls - \$431.4M
Military Construction Prior Year Savings – \$-335.0M	National Guard & Reserve Component Equipment - \$420.0M
Various program delays, early-to-need requests - \$-276.3M	Stryker Lethality Upgrades for Urgent Operational Need - \$411.0M
Various Program Reductions - \$-243.7M	Increased Operations Tempo to Meet Readiness Objectives - \$385.1M

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KC-46A - \$-224.0M	Israeli Cooperative Missile Defense - \$320.2M
Working Capital Fund carryover above allowable ceiling - \$-150.0M	Basic Housing Allowance - \$300.0M
Various program efficiencies - \$-140.0M	Ukraine Security Allowance - \$300.0M
Military Personnel Projected Understrength - \$-115.8M	Maintaining Commissary Hours of Operation - \$281.2M
Joint Urgent Operational Needs Fund - \$-99.7M	LX(R) Acceleration - \$279.0M
EELV - Launch Vehicle Development - \$-84.4M	EELV - Rocket Propulsion System Development - \$184.4M
A-10 to F-15E Training Transition - \$-78.2M	Javelin - \$141.0M
Unjustified Growth in Defense - wide RDT&E programs - \$-48.3M	Additional TOW Missile - Marine Corps Unfunded Requirement - \$140.0M
Unjustified increase and analysis of alternatives - \$-20.0M	Additional 8 Rotorcraft for Army National Guard - \$128.0M
Cost growth for support equipment - \$-16.8M	Apache Survivability Enhancements - Army Unfunded Requirement - \$110.0M
Unjustified Growth Marine Corps Heritage Center - \$-16.7M	Financial Literacy Training - \$85.0M
OUSD AT&L Congressional Mandate (BRAC Support) - \$-10.5M	Additional MQ-4C Triton Unmanned Aerial System - Navy Unfunded Requirement - \$65.0M
Civilian Institutions Graduate Education Program - \$-6.5M	Additional DDG Modification - Unfunded Requirement - \$60.0M
EMD Contract Delays - \$-5.8M	Plan Central America - \$50.0M
	EC-130H Force Structure Restoration - \$48.3M
	Commence Planning and Design of an East Coast Missile Defense Site - \$30.0M

**BRAC:** The Conferees are mindful of DoD concerns that excess basing capacity is a financial drag on the Department. They are also cognizant of the fact that the most recent capacity survey is more than a decade old, does not reflect the impacts or cost of the most recent BRAC round, and does not account for the probable future force posture. The NDAA proposal directs a **new capacity study that reflects the current threat profile** and makes conservative assumptions about future end strength. Conferees are concerned that once an asset is lost through the BRAC process, it can never be regained, or is prohibitively expensive to replace. Hence, they are deeply skeptical that BRAC is in the country's national security interest.

**Reducing Required Reports:** Finally, the Conferees are aware that Congress can often be the source of inefficiency in the Department of Defense. The proposal takes action to ensure that reporting requirements do not outlive their usefulness to the public or Congress, while still imposing a burden upon DoD resources. Under the agreement, **all reports mandated by any NDAA prior to April 1, 2015, not in U.S. code, will expire in two years** unless they are re-authorized.

**Ready**

A ready force is backed by well-maintained equipment, rigorous training, adequate facilities and infrastructure, and competent civilian partners. Likewise, appropriate policies, and well-funded and well-designed strategies also ensure that our Armed Forces are ready to meet current and future threats. The Conference Agreement assures a properly-trained and equipped force, as well as one backed by a sensible strategic approach.

**Military Personnel:** Caring for our **troops and their families** is the cornerstone of readiness.

The Conferees continue to focus on supporting members who transition from military service by establishing a **Job Training and Post-Service Placement Executive Committee** within the current Department of Defense-Department of Veterans Affairs Joint Executive Committee. The NDAA directs a **joint uniform formulary between the Department of Defense and the Department of Veterans Affairs** for medications to treat psychiatric conditions, sleep disorders, and pain management to ensure transitioning veterans continue to receive the best care when they leave military service.

Extended deployments are a strain on military families that can be mitigated by visits to deployed family members. The Commission noted that current **Space A regulations** only allow for spouses and children to visit troops on deployments longer than 120 days. The Conference Agreement would shorten that time to 30 days.

**Personal Carry of Firearms:** Tragic domestic attacks on DOD personnel, including those at Little Rock, Chattanooga, and Fort Hood, convinced Conferees that a one-size-fits-all force protection standard for domestic installations is inadequate, especially where carrying personal firearms is involved. The NDAA makes clear that **post commanders are empowered to permit a member of the Armed Forces to carry appropriate firearms**, including personal firearms, at DOD installations, reserve centers, and recruiting centers. The Secretary of Defense must implement a policy to so empower post commanders no later than December 31, 2015.

The Conference Agreement continues the vigorous oversight and **protection of our troops from sexual assault**. The Conferees welcome the bipartisan leadership of Members of the Committee - in addition to the Military Personnel Subcommittee - in recommending improvements to the Special Victims program. These improvements include a requirement that victims be notified of their right to Special Victim's Counsel prior to questioning by law enforcement, a requirement for DoD to establish minimum training standards and performance measures for Special Victims Counsel, and a requirement for DoD to **enhance sexual assault prevention for male victims** in the Armed Forces. DoD is also required to **develop a strategy to deal with retaliation against those who report or intervene on behalf of victims**.

**Readiness:** Among provisions aimed at dealing with shortfalls and unfunded requirements cited by the Department, the agreement provides an **increase in the military construction program** above FY15 enacted levels. The NDAA fully funds the Operation and Maintenance accounts for an 11th carrier and 10th air wing, aircraft carrier maintenance reset, ship operations, and collective training exercises resulting in 19 Combat Training Center rotations for Brigade Combat Teams. The NDAA also fully funds Initial Entry Rotary Wing training, and restores funding to meet 100% of the flying hour program requirement. The Conference Agreement authorizes additional Marine Corps resources to meet unfunded aviation readiness requirements and ensure adequate numbers of mission-capable aircraft, as well as additional Air Force training resources for high-demand areas such as unmanned systems pilots and joint terminal controllers.

**Cyber:** This domain of modern warfare continues to grow in scope and sophistication. The country has witnessed recent, bold cyber-attacks against OPM, Google, large financial institutions, congressional computer systems, and the Pentagon. Congress has a responsibility to address this evolving threat, and this includes taking action to update and improve the national security authorities, organizations, and policies necessary to do so.

The NDAA provides for stronger cyber operations capabilities and looks to safeguard our technological

superiority. The agreement **fully resources and authorizes U.S. Cyber Command programs and activities**, as well as all **Military Service cyber programs and Cyber science and technology initiatives** to enhance a Cyber mission force that defends our national security objectives.

Conferees recognize the importance of working with our defense industrial base partners, and the NDAA includes **incentives to improve sharing of information** on threats and defensive measures with the Department of Defense.

The Conferees agreed to a number of provisions to create, expand or clarify authorities to support the Department's ability to man, train and equip cyber forces, and operate cyber forces at the speeds necessary to function in the cyber domain. These include:

- Creation of a new cyber personnel hiring authority for U.S. Cyber Command and the cyber commands of the military department:
- Limited cyber acquisition authority for U.S. Cyber Command;
- Codification of cyber liability protections for certain covered contractors;
- Designation of an entity responsible for the acquisition of certain critical cyber capabilities;
- An assessment of the capabilities of Cyber Command to defend the U.S. from cyber-attacks;
- A plan for biennial exercises for responding to cyber-attacks; and
- Evaluation and remediation of cyber vulnerabilities of major weapons systems.

**Intelligence:** Maintaining robust military intelligence is essential to our national security. To that end, the NDAA takes steps to ensure **military intelligence analysis remains a priority at the national level** and that the Department is thinking hard about how it collects and analyzes intelligence to support the needs of the Combatant Commanders and warfighters. Additionally the Conferees agree that greater scrutiny should be applied to the **intelligence being provided to inform our acquisition decisions** and also making sure the department is planning adequately for the demands new weapon systems will place on military intelligence. The NDAA directs the DoD to examine the science and technical intelligence and foreign material exploitation work being done by various military intelligence organizations, identify redundancies, and make changes where necessary.

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In an era of unprecedented threats, the NDAA also ensures that our forces are supported by a **sound strategy** that meets and mitigates those challenges, which range from a resurgent Russia, a belligerent China, the barbaric Islamic State of Iraq and the Levant, Iran as it wields its malevolent influence in the Middle East, former Guantanamo Bay detainees who have returned to the fight, narco-terrorists, and others.

**Afghanistan:** The NDAA extends vital authorities for our forces in **Afghanistan**, including an extension of the **Commander's Emergency Response Program (CERP)**, and continuing support for the Afghan National Security Forces (ANSF) so that they can preserve the hard-fought gains in Afghanistan and maintain its stability and security. The NDAA also requires **the President to report on the risks associated with his planned drawdown of coalition forces from Afghanistan**. The Conference Agreement extends the **Oversight of Sensitive Military Operations (OSMOA)** reporting requirements on "lethal and capture" operations in Afghanistan beginning in 2017.

**Iran:** The Conference Agreement extends the "Iran Military Power Report" for 10 years. The NDAA reflects the Conferee's view that Iran's illicit pursuit of a nuclear weapons capability and its malign

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military activities constitute a grave threat to regional stability and U.S. national security interests. It also reflects their concern that Iran may well increase its malign activities, including its support to terrorism, regardless of the comprehensive nuclear agreement with Iran. The Conferees also require the Secretary of Defense, in coordination with the President, to submit a strategy to counter unconventional warfare threats being posed by Iran.

**ISIL:** The NDAA reinforces the mission against the **Islamic State of Iraq and the Levant (ISIL)** and Operation INHERENT RESOLVE (OIR). The Conference Agreement reauthorizes the Office of Security Cooperation in Iraq at \$80 million. The NDAA also supports authorizing the President's request of \$715 million for **security assistance to Iraqi forces combating ISIL**. The Conferees agree, however, that the future of a free Iraq depends on an inclusive government. The agreement requires the Secretary of Defense to deliver to the President an assessment on the political inclusivity of the Government of Iraq. The President may, on the basis of that report, decide to arm the Kurds, Sunnis, or other groups directly.

The agreement authorizes \$600 million for the Administration's program to **train and equip the vetted moderate elements of the Syrian opposition**. The Conferees remain deeply concerned about the program, so the agreement **requires the Secretary of Defense to gain approval from Congress each time** that he would like to apply monies to this program. The NDAA also authorizes funds to enhance **Jordanian border security**, and further increases oversight of overall command and control of OIR.

The NDAA requires the Secretary of Defense to report on "boots on the ground" in the fight against ISIL. This report reflects concerns expressed by Conferees on limitations and **force protection** associated with the counter-ISIL mission.

The Agreement recognizes that ISIL and al Qaeda have taken to the Internet to spread their message and attract supporters to their cause. The NDAA gives the Secretary of Defense the authority to establish a pilot program to counter these adversarial propaganda efforts, as well as additional funding for U.S. Special Operations Command inform and influence activities. The Conference Agreement proposal also increases the "1208 program" to \$85 million to assist the global fight against terrorists such as al Qaeda and ISIL. In FY2016, the NDAA authorizes \$1 billion for the Counterterrorism Partnership Fund (CTPF), which can be used to support the border security and capability enhancements for Jordan, military construction, and other counter-ISIL requirements.

**Russia:** Russia has employed conventional and unconventional warfare methods to counter U.S. and western interests. Similar to CTPF, at the President's request, Congress authorized the **European Reassurance Initiative** in the FY15 NDAA. Rather than authorize a general fund, the Conference Agreement allocates resources to specific requirements, including increased funding for **U.S. intelligence and warning capabilities, technologies supporting U.S. information operations and strategic communications activities, the Javelin missile system, and Stryker combat vehicle upgrades**.

Conferees also focused on Russia's use of unconventional warfare tactics and how the Department should counter them. Therefore, the NDAA requires the Secretary of Defense, in coordination with the President, to submit a strategy to counter unconventional warfare threats being posed by an expansive and aggressive Russia and provides additional authorities and funding to counter Russian propaganda efforts. The NDAA also directs the DoD Office of Net Assessment to undertake a study exploring various strategies for deterring unconventional warfare tactics similar to those being used by Russia in Ukraine.



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To further address Russian aggression, the Conferees support providing air defense capability for the U.S. Aegis Ashore Sites in Romania and Poland to provide them self-defense capability from Russian aircraft and cruise missile attacks. Russia has repeatedly threatened to attack these sites and the U.S. personnel who man them, and the Conferees believe we have a moral obligation to defend our personnel against any threat. The Conference Agreement directs the Secretary of Defense to begin planning to provide such capability and to seek NATO reimbursement for the same by date certain. The NDAA includes a bipartisan proposal to direct the research and development of military responses to Russia's violation of the Intermediate-range Nuclear Forces (INF) treaty, which has gone largely unchallenged by the Administration thus far.

**Ukraine:** The NDAA incorporates bipartisan, bicameral efforts to provide assistance and sustainment to the military and national security forces of Ukraine, which specifically includes the authority for lethal assistance of a defensive nature to Ukraine. Conferees authorize \$300 million over two years to the Ukraine Security Assistance Initiative of which \$50 million is intended for lethal assistance, unless the Secretary of Defense waives the requirement for such aid six months after enactment. The Conferees remain concerned that the President has not done enough to provide military training and assistance to Ukraine to allow it to defend itself and increase the costs to Russia for engaging in such aggressive behavior.

**Nuclear weapons:** The Conference Agreement includes an additional \$50 million to start tackling the **\$3.6 billion backlog of old, crumbling infrastructure within the National Nuclear Security Administration (NNSA)**. The Conference Report includes language from both the House and Senate to implement a GAO recommendation and direct the transfer of NNSA's old, nonoperational facilities to the Department of Energy's Office of Environmental Management where they can be prioritized and demolished. The Agreement also establishes a program to **ensure NNSA is agile and responsive to change** by fully and continuously exercising the capabilities and skills needed to study, design, and produce nuclear weapons. It also includes language in the House and Senate bills to provide a forcing function to the Department of Energy and NNSA to ensure implementation of recommendations for improving the longstanding governance and management problems at these agencies.

**Defense Security Cooperation:** The Department has placed greater emphasis on security cooperation, to include building partner capacity. Conferees are concerned about the lack of strategy guiding these efforts and how effective they are. Therefore, the Conference Agreement **requires the Secretary of Defense, in coordination with the Secretary of State, to develop a strategic framework for DoD security cooperation** to guide prioritization of resources and activities, which should lay the groundwork for the committee's planned deep-dive review of defense security cooperation authorities, programs, and resources.

**GTMO:** The status of detainees held at Guantanamo Bay (GTMO) is of great concern to the Conferees. The Conference Agreement reauthorizes the bipartisan **prohibitions against transferring detainees to the United States and against building detention facilities in the United States**. Since January of 2014, the Administration has transferred 41 detainees out of Guantanamo. The Conferees have grave concerns about the circumstances of these transfers and the continued reengagement of former detainees in terrorist activities. Further, there is little public disclosure about the facts surrounding detainee reengagement. This amplifies many Members' concern that the President unlawfully transferred five senior Taliban terrorists from GTMO in violation of provisions in the FY14 NDAA requiring a 30-day advance congressional notification. Detainee transfers should occur only when U.S. security can be assured, and not to meet an arbitrary campaign promise. To that end, the Conference Agreement **further**

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**limits the Secretary of Defense's ability to transfer detainees** by reverting to the stronger transfer policy established in the FY13 NDAA. Transfers may take place only when the Secretary of Defense can certify that the foreign country to which the detainee is being transferred takes steps to substantially mitigate any risk of the detainee threatening the United States or reengaging in terrorist activity. The Agreement also **prohibits the transfer of detainees to Libya, Somalia, Syria, and Yemen.**

As reports of detainee re-engagements persist, the NDAA also directs the Department of Defense to **provide additional information to Congress when former detainees attempt to communicate with terrorists.**

The Conference agreement also includes provisions on **interrogation** passed by a large bi-partisan majority in the Senate. This provision codifies existing executive orders regarding interrogation. Consistent with the 2005 Detainee Treatment Act, the NDAA restricts interrogation methods by the U.S. Military, and now the intelligence community, to techniques listed in the **Army Field Manual**. The provision restricts modifications to the field manual for the next three years.

**Central America:** Threatening levels of violence, instability, illicit trafficking, and transnational organized crime challenge the sovereignty of Central American nations and the security of the United States. Building on the President's budget request of \$1 billion to the Department of State to address this crisis, the NDAA allocates **\$30 million for DoD-unique capabilities** in areas such as aerial and maritime capabilities, building partnership capacity, and the detection and monitoring of illicit trafficking to complement Department of State efforts. It also provides an additional **\$20 million for SOUTHCOM ISR requirements.**

**Indo-Asia-Pacific Region:** The Conferees remain concerned about America's strategy in the Indo-Asia-Pacific region. The NDAA would require the President to **develop a strategy** for promoting America's interests in this region. Further, ahead of civilian nuclear negotiations in the region, the NDAA requires an assessment from the Director of National Intelligence and the Chief of Naval Operations on the risk of civilian nuclear energy information being diverted to foreign nuclear naval propulsion programs, as well as development of a strategy for mitigating that risk. Lastly, in recognition of the tremendous sacrifice, bravery, and loss of U.S. and Allied Forces during the Second World War in the Pacific, the NDAA expresses the **sense of Congress on the 70<sup>th</sup> Anniversary of the end of the Second World War in the Pacific**, and notes the close alliance relationship that the United States and Japan have forged since the war.

## **LETHAL**

America's military must have the platforms and programs required to be a reliably lethal force. To that end, the Conference Agreement includes investments to ensure lethality.

**Special Operations Forces:** The NDAA fully resources and enables Special Operations Forces and U.S. Special Operations Command activities and programs for today and tomorrow, including investments in operations, readiness, procurement and science and technology initiatives across the force. It extends critical authorities used by our Special Operations Forces across the globe, and provides additional authorities and funding to counter adversarial propaganda efforts, such as those being utilized by Russia, Al Qaida, and the Islamic State of Iraq and the Levant.

**A-10:** Rigorous oversight, endorsements from Soldiers and Marines about the protection only the A-10 can provide, and repeated deployments in support of OIR have persuaded many Members from both parties that the budget-driven decision to retire the A-10 is misguided. **The NDAA restores funding for the A-10 and prohibits its retirement.** Unlike past efforts to restore the platform, the NDAA **identifies specific funding** to restore personnel, and preserve, the A-10 fleet.

**Strike Fighters:** As the demand increases, it is vital that Congress address the shortfall in strike aircraft for the Navy and Marine Corps – including the replacement of Harrier aircraft lost in Afghanistan. To that end, the NDAA authorizes **12 additional F-18s for the Navy and 6 additional F-35Bs for the Marine Corps.** The NDAA also supports the budget request for 57 total F-35 aircraft, but recommends targeted adjustments based on contract savings and program oversight concerns.

**UH-60 Blackhawks:** The availability of equipment needed to sustain and modernize the National Guard and Reserve Components as an operational reserve and for their domestic support missions remains a concern. To that end, the NDAA includes several oversight provisions to help **accelerate rotorcraft modernization for the Army National Guard**, and recommends additional funding for UH-60M Blackhawks for the Army National Guard. The UH-60M is the most modernized Blackhawk, and would help fill an urgent need in Army Guard units for this utility helicopter for both operational and domestic support missions.

**AH-64 Apache Survivability Equipment Modernization:** The NDAA recommends additional funding to address an Army unfunded requirement and urgent operational need to procure and develop improved countermeasures to better protect deployed Apache attack helicopters against the latest and most lethal threats.

**National Sea Based Deterrence Fund:** The Ohio-class ballistic missile submarine replacement program will carry 70% of our nation's DEPLOYED strategic NUCLEAR weapons. The Conferees provided additional authorities to support the streamlined acquisition of the Ohio-class replacement, including appropriate use of incremental funding and economic order quantity authority. The conferees also included additional reprogramming authority for the National Sea-Based Deterrence Fund to include the ability to receive funds from the entire Department of Defense.

**Unmanned Carrier-Launched Airborne Surveillance and Strike (UCLASS) Program:** The Conferees believe that the Navy should develop a penetrating, air-refuelable, unmanned carrier-launched aircraft capable of performing a broad range of missions in a non-permissive environment. They believe that such an aircraft should be designed for full integration into carrier air wing operations – including strike operations—and possess the range, payload, and survivability attributes as necessary to complement such integration. Although the Defense Department could develop land-based unmanned aircraft with attributes to support the air wing, the Conferees believe that the United States would derive substantial strategic and operational benefits from operating such aircraft from a mobile seabase that is self-deployable and not subject to the caveats of a host nation.

**Long-Range Strike Bomber:** The new bomber program is a key element in DoD's planned investment in long-range strike. The Conference Agreement authorizes the full amount for the program that the Air Force can execute in FY16, given contract award delays. Additionally, the NDAA instructs GAO to complete an assessment of technology challenges and cost implications associated with LRSB.

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**Air Force Tankers:** The Conference Agreement expresses strong support for KC-46A Tanker as a critical enabler of power projection. It funds the program at the level the Air Force can execute in FY16.

**EC-130H Compass Call:** The Air Force proposed to retire half of these critical aircraft. Consistent with the Chief of Staff of the Air Force Unfunded Requirements List, the Conferees believe that the electronic warfare capabilities provided by this aircraft are essential to the Air Force to operate and win in a contested battlespace. The Agreement restores existing capabilities.

**Tomahawk Block IV:** The Conferees believe that the Tomahawk missile has been extremely effective power projection capability. The Agreement reverses an administration's proposal to terminate Tomahawk production and supports the minimum sustaining production rate of 198 missiles.

**RD-180:** Assured access to space is a national security priority. The Conference Committee shares the concern that reliance on Russian-designed rocket engines is no longer acceptable. The Agreement supports policies carried in the FY15 NDAA, with a limited number of additional engines allowed to ease an appropriate transition to a new U.S. engine. The Conference Committee also directs the Air Force to terminate its EELV Launch Capability infrastructure program by a date certain, to promote true competition in space launch. The Agreement also authorizes \$184.4M for the development of a new, U.S. rocket propulsion system, and directs the Air Force to move faster than it is planning to end reliance on Russian rocket engines. The Agreement does not allow the Air Force to fund a new launch vehicle or infrastructure.

**Missile Defense:** The NDAA accelerates development of a next-generation missile defense interceptor, the Multiple-object Kill Vehicle, which is a follow-on to the effort the Obama Administration terminated in 2009; it directs concept development of space-based and other boost phase missile defense capability; directs the Secretary of Defense to begin planning for how to provide the air defense of the Aegis Ashore Sites in Romania and Poland and to seek NATO financial support for the same; and, directs the deployment of a new advanced ballistic missile defense radar to defend against the threat of an Iranian intercontinental ballistic missile, including possibly the Sea-based X-band (SBX) radar at a new homeport on the East Coast.

The Conference Agreement also authorizes \$30 million for planning and design for an **East Coast missile defense site**, requires the designation of the preferred location for such site, and requires a plan to accelerate its deployment by two years to add to the ballistic missile defense of the United States. Both President Bush and President Obama agreed on the need for an additional homeland missile defense site postured specifically to defend the United States against Iranian long-range ballistic missiles. President Obama's two concessions of our missile defenses to Russia have created a hole in our homeland missile defense coverage. Iran's test this past February of a Safir space launch vehicle reminds us that Iran continues to develop an ICBM capability, and the Obama Administration acceded to Iran's demands that such capability not be included in the final agreement on its nuclear weapons program.

**National Guard and Reserve Component Equipment Account:** Consistent with previous NDAAs, and in continuing attempt to fund National Guard and Reserve Component required capabilities at the appropriate level, the Conferees' have recommended that additional funds be authorized as part of a National Guard and Reserve equipment account to address significant equipment shortages in modernized equipment for the Guard and Reserves.