



Amendments to H.R. 2685—Fiscal Year 2016 Defense Appropriations (Frelinghuysen, R-NJ) – Part II

CONTACT: MATT DICKERSON, MATTHEW.DICKERSON@MAIL.HOUSE.GOV, 6-9718

The committee report can be found [here](#), and the text of the legislation can be found [here](#).

AMENDMENTS WITH REQUESTED VOTES:

1. **Schiff (D-CA)**: Would prohibit funds to carry out the mission ([Operation Inherent Resolve](#)) in Iraq and Syria against Islamic State of Iraq and the Levant (ISIL) after March 31, 2016, unless a law is enacted that specifically authorizes the use of military force.
2. **Lee (D-CA)**: Would prohibit the use of funds after December 31, 2015, pursuant to the [2001 Authorization for Use of Military Force](#) (UMF) against those who perpetrated or provided support for the September 11, 2001, terrorist attacks.
3. **Lee (D-CA)**: Would prohibit the use of funds pursuant to the [2002 Authorization for Use of Military Force](#) (AUMF) against Iraq.
4. **Sablan (D-MP)**: Would prohibit funds to establish a live-fire training range or course in the Northern Mariana Islands. It has been [announced](#) that the Department of Defense has planned to establish a training range on an island in the Northern Mariana Islands.
5. **Gosar (R-AZ)**: Would prohibit funds to divest any Marine Corps search and rescue units. The Corps recently [announced](#) plans to disband the search and rescue units stationed at Marine Corps Air Station Yuma, Arizona, and MCAS Cherry Point, North Carolina.
6. **Johnson (D-GA)**: Would prohibit funds to transfer flash-bang grenades to local law enforcement agencies under the "[1033 Program](#)" that allows the Department of Defense to transfer defense material to federal and state agencies for use in law enforcement.
7. **Gosar (R-AZ)**: Would prohibit funds to procure new model Army Aircrew Combat Uniforms. According to the [amendment sponsor](#), there are concerns about the safety and cost of the uniform. A similar amendment to the FY 2015 DOD Appropriations bill was adopted by a voice vote.
8. **Johnson (D-GA)**: Would prohibit funds to transfer [mine-resistant ambush protected](#) (MRAP) vehicles to local law enforcement agencies under the "1033 Program" that allows the Department of Defense to transfer defense material to federal and state agencies for use in law enforcement.

9. **Ellison (D-MN)**: Would prohibit funds to enter into a contract with a federal contractor that has a single violation of the [Fair Labor Standards Act \(FLSA\)](#). This law requires private employers to comply with federal minimum wage, overtime pay, and child labor standards.

Under current law, federal agencies have ability to reject a contractor who has a history of violating labor laws. Some may be concerned that this amendment would encourage frivolous lawsuits against employers and that the [GAO has reported problems](#) with the Department of Labor's guidance on the FLSA.

In 2014, the president issued an executive order to deny contracts to any company that has violated or allegedly violated various federal labor laws. In February, the Education and Workforce Committee held a joint subcommittee hearing on this executive order "[The Blacklisting Executive Order: Rewriting Federal Labor Policies Through Executive Fiat.](#)"

Key Vote No: Associated Builders and Contractors

The [following groups](#) have urged a "NO" vote on any version of this amendment: Acquisition Reform Working Group (ARWG), American Hotel and Lodging Association (AHLA), American Trucking Associations (ATA), Associated Builders and Contractors (ABC), Associated General Contractors (AGC), HR Policy Association (HRPA), International Franchise Association (IFA), IT Alliance for Public Sector (ITAPS), National Association of Manufacturers (NAM), Professional Services Council (PSC), [Society for Human Resource Management \(SHRM\)](#), and U.S. Chamber of Commerce.

A Dear Colleague from the Committee on Education and the Workforce can be found [here](#). A similar amendment to the FY2016 CJS Appropriations bill failed by a [184 – 244](#) vote.

10. **Smith (R-MO)**: Would prohibit funds to provide legal defense for detainees held at Guantanamo Bay. Some have expressed concerns that this policy could impact the prosecution of detainees currently assigned military counsel and the function of military commissions.
11. **Massie (R-KY)**: Would prohibit funds to search databases of information collected pursuant to Section [702 of FISA](#) using a United States person identifier. Section 702 permits the Attorney General and the Director of National Intelligence to authorize targeting of non-U.S. persons reasonably believed to be located outside the United States. It has [been reported](#) that in practice the government collected large amounts of electronic communications of both U.S. and Non-U.S. who were not intended to be targeted by the collection. It has also [been reported](#) that the NSA has searched the contents of U.S. persons' communications without warrants. This practice has raised [concerns](#) that the actions taken by the NSA are unconstitutional.

The amendment would also prohibit funds for the National Security Agency (NSA) or the Central Intelligence Agency (CIA) to mandate or request that a company alter its product or service to create a "backdoor" that would permit government surveillance of users. Similar amendments to the FY2016 CJS Appropriations bill on this issue were adopted by [voice vote](#) and by a [383 – 43](#) vote.

A [letter](#) from the Director of National Intelligence, James Clapper, states that "these prohibitions [in the amendment] will create significant intelligence gaps, prevent us from exercising our statutory authorities to obtain key lawful collection assistance, and degrade our collection capabilities.

An identical Massie amendment to FY 2015 DOD bill was adopted by a [293 – 123](#) vote.

Key Vote Yes: [FreedomWorks](#)

12. **Forbes (R-VA):** Would allow \$3.5 billion of unobligated funds made available by the bill to be transferred to the National Sea Based Deterrent Fund.

The [House-passed NDAA](#) would have established a new National Sea Based Deterrent Fund to provide the funding of the construction of the replacement for the Ohio-class ballistic missile submarines that would be separate from the Navy's normal shipbuilding account. The Department of Defense would have the ability to transfer unobligated funds from other DOD accounts to the National Sea Based Deterrent Fund without Congressional approval or going through the normal reprogramming process. The new account was created due to concerns that because the new submarines are projected to [cost \\$5 billion each](#), construction costs could crowd out needed funds for other projects in the shipbuilding account. A CRS report on the issue can be found [here](#).

An amendment to strike a provision in the underlying bill that would have prohibited the transfer of funds to the National Sea Based Deterrent Fund was adopted by a [321 – 111](#) vote.

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