



H.R. 1301: Fiscal Year 2017 Defense Appropriations (Rep. Frelinghuysen, R-NJ)

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FLOOR SCHEDULE:

H.R. 1301 is expected to be considered on March 8, 2017, under a [closed rule](#).

TOPLINE SUMMARY:

H.R. 1301 would provide appropriations for the Department of Defense for Fiscal Year 2017.

A [consolidated summary of major policy provisions \(riders\)](#) is available at the end of the detailed summary below.

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

COST:

The bill would provide a net total of \$516.115 billion in Fiscal Year 2017 base discretionary budget authority that is subject to the Budget Control Act (BCA) discretionary spending caps (as increased by the Bipartisan Budget Act of 2015 (BBA15)).

In thousands of Dollars

	FY16 Enacted	FY17 Pres Obama Request	FY17 Original House Level	FY17 New House Level
Net Total Base Discretionary	514,148,000	516,543,169	517,130,000	516,115,000

Net Total Base Discretionary Budget Authority is:

- \$428 million below President Obama's budget request.
- \$1.976 billion above the enacted FY 2016 level.
- \$1.015 billion below the level originally proposed by the House for FY 2017.

The bill also includes \$61.822 billion in Overseas Contingency Operations (OCO/GWOT) funding that is exempt from the BCA spending caps.

The funds appropriated by this bill would be in addition to the \$5.82 billion in supplemental OCO appropriations for the Department of Defense enacted as a part of [Further Continuing and Security Assistance Appropriations Act, 2017](#) that was signed into law in December.

Together, the OCO appropriations provided by this bill and the already enacted supplemental appropriations would total \$67.642 billion

Total Department of Defense Appropriations	
<i>In Thousands of Dollars</i>	
Base Appropriations	516,115,000
OCO Appropriations	61,822,000
Previously Enacted OCO Supplemental	5,820,000
Total OCO	67,642,000
Total FY 2017 DOD Appropriations	583,757,000
<i>Note: Total Appropriations provided by this bill</i>	<i>577,937,000</i>

In total, the bill would provide \$577.937 billion in appropriations for the Department of Defense. When the previously enacted supplemental appropriations are taken into account, the Department of Defense would be appropriated a total of \$583.757 billion in FY 2017.

CONSERVATIVE CONCERNS:

- **Expand the Size and Scope of the Federal Government?** Yes.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

DETAILED SUMMARY AND ANALYSIS:

Title I: Active, Reserve, And National Guard Military Personnel

Net Total Discretionary in Thousands of Dollars

FY16 Enacted	FY17 Pres Obama Request	FY17 Original House Level	FY17 New House Level	New FY17 vs 16 Enacted	New FY17 vs Pres Obama	New FY 17 vs Original House FY17
129,228,658	128,902,332	128,168,468	128,725,978	- 502,680	- 176,354	+ 557,510

Military Personnel would be appropriated \$128.726 billion, a level that is \$176 million below President Obama’s budget request, \$503 million below the FY 2016 enacted level, and \$558 million above the level originally proposed by the House.

Military Personnel End Strength: The bill would provide funding to support end-strength levels of 815 below those authorized in FY 2016 and 36,000 above President Obama’s budget request. A summary of end-strength personnel levels is below and a more detailed table can be found in the [Explanatory Statement](#):

End Strength	FY 2016 Authorized	FY17 Obama Budget Request	FY17 Originally recommended by the House	FY 2017 recommended in this bill	Change from Request	Change from FY16	Change from Original House
Total, Active Forces	1,308,915	1,281,900	1,310,615	1,305,900	24,000	-3,015	-4,715
Total, Selected Reserve	811,000	801,200	826,200	813,200	12,000	2,200	-13,000
Total, Military Personnel	2,119,915	2,083,100	2,136,815	2,119,100	36,000	-815	-17,715

Military Pay Raise: The bill would provide funding to increase pay for all military personnel by 2.1 percent effective January 1, 2017.

Title II: Operation and Maintenance

Net Total Discretionary in Thousands of Dollars

FY16 Enacted	FY17 Pres Obama Request	FY17 Original House Level	FY17 New House Level	New FY17 vs 16 Enacted	New FY17 vs Pres Obama	New FY 17 vs Original House FY17
167,485,170	171,318,488	173,680,060	167,603,260	+ 118,090	- 3,715,228	- 6,076,800

Operation and Maintenance (O&M) would be appropriated \$167.603 billion, a level that is \$3.715 billion below President Obama’s budget request, \$118 million above the FY 2016 enacted level, and \$6.077 billion below the level originally proposed by the House.

A detailed table of O&M base appropriations can be found in the [Explanatory Statement](#).

Overseas Humanitarian, Disaster, and Civic Aid: The bill would provide \$123 million for Overseas Humanitarian, Disaster, and Civic Aid, a level that is \$18 million above President Obama’s budget request.

Sexual Assault Special Victims’ Counsel Program: The bill would provide \$25 million for the Sexual Assault Special Victims’ Counsel Program.

Title III: Procurement*Net Total Discretionary in Thousands of Dollars*

FY16 Enacted	FY17 Pres Obama Request	FY17 Original House Level	FY17 New House Level	New FY17 vs 16 Enacted	New FY17 vs Pres Obama	New FY 17 vs Original House FY17
110,841,627	101,916,357	104,200,570	108,426,827	- 2,414,800	+ 6,510,470	+ 4,226,257

Procurement would be appropriated \$108.427 billion, a level that is \$6.51 billion above President Obama’s budget request, \$2.415 billion below the FY 2016 enacted level, and \$4.226 billion above the level originally proposed by the House.

A detailed table of Procurement base appropriations can be found in the [Explanatory Statement](#).

Title IV: Research, Development, Test and Evaluation*Net Total Discretionary in Thousands of Dollars*

FY16 Enacted	FY17 Pres Obama Request	FY17 Original House Level	FY17 New House Level	New FY17 vs 16 Enacted	New FY17 vs Pres Obama	New FY 17 vs Original House FY17
69,784,665	71,391,771	70,292,888	72,301,587	+ 2,516,922	+ 909,816	+ 2,008,699

Research, Development, Test and Evaluation (RDT&E) would be appropriated \$72.302 billion, a level that is \$910 million above President Obama’s budget request, \$2.517 billion above the FY 2016 enacted level, and \$2.009 billion above the level originally proposed by the House.

A detailed table of RDT&E base appropriations can be found in the [Explanatory Statement](#).

Title VI: Other Department of Defense Programs*Net Total Discretionary in Thousands of Dollars*

FY16 Enacted	FY17 Pres Obama Request	FY17 Original House Level	FY17 New House Level	New FY17 vs 16 Enacted	New FY17 vs Pres Obama	New FY 17 vs Original House FY17
34,392,468	35,284,674	35,358,421	35,615,831	+ 1,223,363	+ 331,157	+ 257,410

Other Defense Programs would be appropriated \$35.616 billion, a level that is \$331 million above President Obama’s budget request, \$1.223 billion above the FY 2016 enacted level, and \$257 million above the level originally proposed by the House.

Defense Health Program: The bill would provide \$33.781 billion for the Defense Health Program, a level that is \$314 million above President Obama’s budget request, \$1.452 billion above the FY 2016 enacted level, and \$205 million above the level originally proposed by the House.

The primary mission of the Defense Health Program is to “provide for worldwide medical and dental services to active forces and other eligible beneficiaries.” Within this total, \$31.277 billion is for Operations and Maintenance, \$402 million is for Procurement, and \$2.102 billion is for Research, Development, Test, and Evaluation (RDT&E).

As part of RDT&E, the Congressionally Directed Medical Research Program (CDMRP) is funded at \$1.279 billion above the president’s budget request. According to [CRS](#), “Members of Congress are frequently lobbied to support adding funding to the annual defense appropriation for medical research on a wide variety of diseases and topics.” While medical research is a laudable activity, some conservatives may be concerned that many of the programs funded within the CDMRP are not for military-specific conditions and are duplicative of the type of [research done](#) at the National Institutes of Health (NIH). According to [Taxpayers for Common Sense](#), “These programs are clearly earmarks and therefore take money away from other necessary Defense Department functions.” This account also receives additional funding in title IX that is designated as cap-exempt OCO funding.

The bill provides research funding for:

- alcohol and substance abuse disorders;
- ALS;
- Alzheimer;
- autism;
- bone marrow failure disease;
- breast cancer, kidney cancer, lung cancer, ovarian cancer, prostate cancer, and other cancers (including bladder cancer, brain cancer, colorectal cancer, immunotherapy, listeria-based regimens for cancer, liver cancer, lymphoma, melanoma and other skin cancers, mesothelioma, neuroblastoma, pancreatic cancer, pediatric brain tumors, stomach cancer, and cancer in children, adolescents, and young adults);
- Duchenne muscular dystrophy;
- Epilepsy;
- gulf war illness;
- hearing restoration;
- lupus;
- peer-reviewed medical research (including acute lung injury, antimicrobial resistance, arthritis, bum pit exposure, chronic migraine and post-traumatic headache, congenital heart disease, constrictive bronchiolitis, diabetes, diarrheal diseases, dystonia, early trauma thermal regulation, eating disorders, emerging infectious diseases, epidermolysis bullosa, focal segmental glomerulosclerosis, Fragile X, Guillain-Barre syndrome, hepatitis Band C, hereditary angioedema, hydrocephalus, immunomonitoring of intestinal transplants, inflammatory bowel diseases, influenza, integrative medicine, interstitial cystitis, malaria, metals toxicology, mitochondrial disease, musculoskeletal disorders, nanomaterials for bone regeneration, non-opioid pain management, pancreatitis, pathogen-inactivated dried cryoprecipitate, polycystic kidney disease, post-traumatic osteoarthritis, pulmonary fibrosis, respiratory health, Rett syndrome, rheumatoid arthritis, scleroderma, sleep disorders, spinal muscular atrophy, sustained-release drug delivery, tinnitus, tuberculosis, vaccine development for infectious disease, vascular malformations, and women's heart disease);
- multiple sclerosis;
- orthopedic;
- spinal cord,
- reconstructive transplant;
- tickborne disease;
- traumatic brain injury and psychological health;
- tuberous sclerosis complex;
- vision;
- Global HIV/AIDS prevention;
- Joint warfighter medical;
- Orthotics and prosthetics outcome; and,
- Trauma clinical research program.

Drug Interdiction and Counter-Drug Activities: The bill would provide \$999 million for Department of Defense Drug Interdiction and Counter-Drug Activities, a level that is \$154 million above President Obama’s request.

Title VII: Related Agencies

Net Total Discretionary in Thousands of Dollars

FY16 Enacted	FY17 Pres Obama Request	FY17 Original House Level	FY17 New House Level	New FY17 vs 16 Enacted	New FY17 vs Pres Obama	New FY 17 vs Original House FY17
1,019,206	1,047,596	997,596	1,029,596	+ 10,390	- 18,000	+ 32,000

The related agencies funded by the bill would be appropriated \$1.03 billion, a level that is \$18 million below President Obama’s budget request, \$10 million above the FY 2016 enacted level, and \$32 million above the level originally proposed by the House.

Classified Programs: This title would provide for classified programs, including the Director of National Intelligence, the Intelligence Community Management staff, the Central Intelligence Agency (CIA), the Defense Intelligence Agency, the National Reconnaissance Office, the National Security Agency, the National Geospatial-Intelligence Agency, the intelligence services of the Departments of the Army, Navy, Air Force, and the CIA Retirement and Disability fund. The majority of this information is published in the classified annex.

Title IX: Global War on Terrorism (GWOT)/Overseas Contingency Operations (OCO)

Net Total Discretionary in Thousands of Dollars

FY16 Enacted	FY17 Pres Obama Request	FY17 Original House Level	FY17 New House Level	New FY17 vs 16 Enacted	New FY17 vs Pres Obama	New FY 17 vs Original House FY17
58,638,000	58,625,551	58,626,000	61,822,000	+ 3,184,000	+ 3,196,449	+ 3,196,000

OCO/GWOT would be appropriated \$61.822 billion, a level that is \$3.196 billion above President Obama’s budget request, \$3.184 billion above the FY 2016 enacted level, and \$3.196 billion above the level originally proposed by the House.

The funds appropriated by this bill would be in addition to the \$5.82 billion in supplemental OCO appropriations for the Department of Defense enacted as a part of [Further Continuing and Security Assistance Appropriations Act, 2017](#) that was signed into law in December 2016.

Together, the OCO appropriations provided by this bill and the already enacted supplemental appropriations would total \$67.642 billion.

The Bipartisan Budget Act of 2015 [set a defense OCO level](#) for FY 2017 of \$58.798 billion.

Personnel: The bill would provide a total of \$3.442 billion in OCO Military Personnel funding.

Operations and Maintenance (O&M): The bill would provide a total of \$47.737 billion in OCO military O&M funding.

The bill would provide \$980 million for the Counter-ISIL Train and Equip Fund.

Procurement: The bill would provide a total of \$9.368 billion in OCO military Procurement funding.

Research, Development, Test and Evaluation (RDT&E): The bill would provide a total of \$407 million in OCO RDT&E funding.

Other Defense Programs: The bill would provide a total of \$908 million in OCO Other Defense Programs funding, including Defense Health, Drug Interdiction and Counter-Drug Activities, Joint Improvised-Threat Defeat Fund, and the Office of the Inspector General.

MAJOR POLICY PROVISIONS:

Guantanamo Detainees: The bill would prohibit funds to transfer or release any detainee held at Guantanamo Bay into the U.S, modify any facility in the U.S. to house any Guantanamo detainee, prohibit funds in this to be used in contravention 1034 of the National Defense Authorization Act for Fiscal Year 2016 and section 1034 of the National Defense Authorization Act for Fiscal Year 2017, which require the Administration to notify Congress 30 days in advance of a detainee transfer to a foreign country, and prohibit the use of funds to close or transfer the jurisdiction of the Naval Station Guantanamo Bay.

War Powers Resolution: The bill would prohibit the use of funds in contravention of the War Powers Resolution. The bill would also specifically prohibit the use of funds in contravention of the War Powers Resolution in Iraq.

Support for Israel: The bill would provide \$601 million in direct support for Israel, including \$62 million for Iron Dome and \$267 million for Short Range Ballistic Missile Defense.

Second Amendment Provisions: The bill would prohibit funding to implement the U.N. Arms Trade Treaty unless it is ratified by the Senate, and would prohibit the DOD from demilitarizing or disposing of M-1 Carbines, M-1 Garand rifles, M-14 rifles, .22 caliber rifles, .30 caliber rifles, or M-1911 pistols or to destroy small arms ammunition that is not otherwise prohibited for commercial sale by federal law.

Rosoboronexport: The bill would prohibit funding for contracts, agreements, grants, loans, or other agreements with the Rosoboronexport company unless certain conditions are met, such as a prohibition on Rosoboronexport contracts with Syria and a requirement that the Russian Federation withdraws armed forces from Ukraine. Rosoboronexport is the Russian state sole-source export company for defense and dual-use products.

Intelligence: The bill would prohibit the use of funds for integration of foreign intelligence information unless the information has been lawfully collected and processed during the conduct of authorized foreign intelligence activities and that information pertaining to United States persons shall only be handled in accordance with protections provided in the Fourth Amendment of the United States Constitution as implemented through Executive Order No. 12333.

FISA: The bill would prohibit the use of funds for the National Security Agency (NSA) to “conduct an acquisition pursuant to section 702 of the Foreign Intelligence Surveillance Act of 1978 for the purpose of targeting a United States person; or acquire, monitor, or store the contents of any electronic communication of a United States person from a provider of electronic communication services to the public pursuant to section 501 of the Foreign Intelligence Surveillance Act of 1978.”

A-10: The bill would prohibit the use of funds to retire the [A-10 aircraft](#).

KC-10: The bill would prohibit the use of funds to retire the KC-10 fleet.

EC-130H: The bill would prohibit the use of funds to retire the EC-130H aircraft.

BRAC: The bill would prohibit the use of funds for Base Realignment and Closure.

Zika Response: The bill would allow Operations and Maintenance funds for the Army, Navy, Marine Corps, and the Air Force to be transferred to any other account “for activities related to the Zika virus in order to provide health support for the full range of military operations and sustain the health of the members of the Armed Forces, civilian employees of the Department of Defense, and their families, to include: research and development, disease surveillance, vaccine development, rapid detection, vector controls and surveillance, training, and outbreak response”

Prohibition on Assistance to North Korea: The bill would prohibit funding from being obligated or expended for assistance to the Democratic People’s Republic of Korea unless specifically appropriated for that purpose.

Sale of Tobacco Products: The bill would prohibit the sale of tobacco products in military resale outlets below the most competitive price in the local community.

Evolved Expendable Launch Vehicle Procurement: The bill would require that the Evolved Expendable Launch Vehicle (EELV) competitive procurements be open for award to all certified providers of EELV-class systems and that the award shall be made to the provider that offers the best value to the government.

Grants to the Red Cross and the USO: The bill would provide \$20 million for the United Service Organizations (USO) and \$24 million to the Red Cross.

Fisher House: The bill would provide \$16 million for Fisher Houses that provide free housing to the families of wounded warriors while they are receiving hospital treatment, including \$5 million to the [Fisher House Foundation](#) for the construction and furnishing of additional Fisher Houses.

Protectionism: The bill included protectionist “buy American” provisions for: supercomputers, ball and roller bearings, anchors and chains, flags, and carbon, alloy, and armor steel plate.

The bill also subjects all funds made available by the bill to the Buy American Act, requires the Secretary of Defense to consider disbarring any individual from contracting with the Department who has been convicted of intentionally misusing a “made in America” label, and expresses the sense of Congress that the Department of Defense “purchase only American-made equipment and products, provided that American-made equipment and products are cost competitive, quality competitive, and available in a timely fashion.”

Army Contracting Command—New Jersey: The bill would prohibit the use of funds to eliminate, restructure, realign, or make disproportionate personnel reductions at Army Contracting Command—New Jersey sites without 30-day notification to Congress. Picatinny Arsenal is located in New Jersey’s 11th Congressional District.

Section 526: Some conservatives may be concerned that the bill *does not include* a provision that was in the original House-passed bill that would have prohibited funds to enforce Section 526 of the Energy Independence and Security Act (EISA) of 2007, which prohibits federal agencies from purchasing fuel from non-conventional sources such as coal-to-liquids, oil shale, and oil sands, if such fuels have higher lifecycle greenhouse gas emissions than traditional fuels.

Green Energy Mandates: Some conservatives may be concerned that the bill *does not* include a provision that was in the original House-passed bill that would have prohibited funds on certain green energy mandates.

Housing for Unaccompanied Alien Children: Some conservatives may be concerned that the bill *does not* include a provision that was in the original House-passed bill that would have prohibited funds to be used to modify a military installation in the United States, including construction or modification of a facility on a military installation, to provide temporary housing for unaccompanied alien children.

COMMITTEE ACTION:

H.R. 1301 was introduced on March 2, 2017, and referred to the House Appropriations Committee and the House Budget Committee. Neither Committee took further action on the bill.

In the 114th Congress, the Appropriations Committee marked up H.R. 5293, the FY 2017 Defense Appropriations bill, on [May 17, 2016](#), and reported the bill by a voice vote. The bill passed the House by a [282 – 138](#) vote on June 16, 2016. Senate Democrats [filibustered](#) the FY 2017 Defense Appropriations bill, stopping the appropriations process even after a [promise](#) from then-Senate Minority Leader Reid of a return to regular order.

The full-year [FY 2017 Military Construction and Veterans Affairs Appropriations](#) bill has been enacted as a part of the CR that was passed in September.

Funding for the remaining 11 appropriations bills has been extended through April 28, 2017, by [H.R. 2028, the Further Continuing and Security Assistance Appropriations Act, 2017](#), which passed the House on December 8, 2016, by a [326 – 96](#) vote.

ADMINISTRATION POSITION:

No Statement of Administration Policy is available at this time.

CONSTITUTIONAL AUTHORITY:

“Congress has the power to enact this legislation pursuant to the following: The principal constitutional authority for this legislation is clause 7 of section 9 of article I of the Constitution of the United States (the appropriation power), which states: “No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law” In addition, clause 1 of section 8 of article I of the Constitution (the spending power) provides: “The Congress shall have the Power . . . to pay the Debts and provide for the common Defence and general Welfare of the United States” Together, these specific constitutional provisions establish the congressional power of the purse, granting Congress the authority to appropriate funds, to determine their purpose, amount, and period of availability, and to set forth terms and conditions governing their use.”

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