

## House-Senate Conference Agreement on FY 2020 National Defense Authorization Bill S.1790

### Topline funding

	Senate <u>approved</u>	House <u>approved</u>
Total funding	\$750.0 billion	\$733.0 billion
Overseas Contingency Funding	\$ 75.9 billion	\$ 69.0 billion

#### Conference outcome:

Total funding:	\$738.0 billion
Overseas Contingency Funding	\$ 71.5 billion

### Nuclear and Related Weapons Programs and Treaties

#### **Low yield nuclear warhead for submarines**

House: Prohibits funds for the deployment of W76-2 low-yield warhead for submarines and cuts entire \$19.6 million DoD request and \$10 million NNSA request for the program. (Section 1646).

Senate: Funds the program.

Conference outcome: Funds the program.

#### **New Start Treaty**

House: Supports extending the New START Treaty and prohibits the use of funds to withdraw from New START unless Russia is in material breach of the treaty, requires Director of National Intelligence, Secretary of State and Secretary of Defense reports detailing the consequences of the Treaty's lapse and impact on US nuclear modernization plan, and requires Presidential certification regarding the future of the Treaty before its potential expiration (Section 1240A).

Senate: No similar provision.

Conference outcome: Requires congressional notification and a 120-day waiting period before the provision of notice of any intent to withdraw from the New START (Section 1237).

#### **Ground Based Strategic Deterrent (GBSD – ICBM replacement)**

House: \$489.4 million, a reduction of \$103 million from request

Senate: \$592.4 million, an increase of \$22 million from request

Conference outcome: \$552.4 million

#### **Conventional Intermediate-range nuclear missiles**

House: Prohibits funding for missiles noncompliant with the Intermediate-Range Nuclear Forces Treaty until the Secretary of Defense meets certain conditions and cuts entire \$96 million Pentagon request for R&D on three INF-range missiles (Section 1270J).

Senate: No similar provision.

Conference outcome: Prohibits the procurement or deployment of new ground launched INF-range missiles in FY 2020 and requires an analysis of alternatives to such new missiles, basing options and foreign countries consulted including NATO (Section 1698).

### **Sea Launched Cruise Missile**

House: Funds the Pentagon request of \$5 million but eliminates the NNSA request of \$5.6 million. Requires report on operational and budget impacts.

Senate: Provides a \$5 million increase above the Pentagon request level, funds at the NNSA request level, and establishes a formal DoD program of record.

Conference outcome: Eliminates the \$5 million increase.

### **Deployed ICBM's**

House: No similar provision

Senate: Bars reducing responsiveness, alert level or quantity of deployed U.S. intercontinental ballistic missiles to fewer than 400. (Section 1664).

Conference outcome: Bars reducing responsiveness, alert level or quantity of deployed U.S. intercontinental ballistic missiles to fewer than 400. (Section 1672).

### **Mobile ICBM**

House: Bars until 2030 any spending of a mobile variant of the ground-based strategic deterrent missile (Section 1645).

Senate: No similar provision

Conference outcome: Bars until 2024 any spending of a mobile variant of the ground-based strategic deterrent missile (Section 1670).

### **ICBM W78 warhead**

House: Requires the National Nuclear Security Administrator to conduct an analysis of alternatives with respect to replacing the ICBM W78 warhead, limits funds until the analysis of alternatives is submitted and requires an independent study of the W78 replacement. Also reduces by \$59 million the NNSA request for the W87-1 (W78 replacement) (Section 3119).

Senate: Fully funds W87-1 (\$112 million).

Conference outcome: Would not bar spending on the W78 and requires a report on alternatives previously considered (Section 3135).

### **Production of plutonium pits**

House: Repeals the requirement for the Department of Energy to demonstrate the capability to produce plutonium pits at a rate sufficient to produce 80 pits per year by 2027, and instead sets a goal of 30 pits per year. Also cuts \$241.2 million from the NNSA request of \$712.4 million to expand pit production beyond 30 pits (Section 3114).

Senate: Extends the deadline for the Department of Energy to produce 80 plutonium pits per year from 2027 to 2030. Fully funds the NNSA request for plutonium sustainment (Section 8102).

Conference outcome: Department of Energy to produce 80 plutonium pits per year by 2030 (Section 3116).

### **Open Skies Treaty**

House: Reaffirms Congress's commitment to the Open Skies Treaty, prohibits the use of DoD funds to suspend, terminate, or withdraw from Open Skies unless "certain certification requirements are made," and updates reporting requirements on flights conducted under Open Skies (Section 1231).

Senate: No similar provision

Conference outcome: Requires congressional notification and a 120-day waiting period before the provision of notice of any intent to withdraw from the Open Skies treaties (including requiring consultation with allies prior to withdrawal from the Open Skies Treaty) (Section 234).

### **No first use of nuclear weapons**

House: Requires an independent study on the policy of no-first-use of nuclear weapons (Section 1649).

Senate: No similar provision

Conference outcome: Requires an independent study on the policy of no-first-use of nuclear weapons (Section 1673).

### **Studies on cost of nuclear weapons programs**

House: Requires studies regarding potential cost savings with respect to the nuclear security enterprise and force structure by the Comptroller General, Federally funded research and development centers, a nongovernmental think tank and the Congressional Budget Office (Section 1099Y).

Senate: No similar provision

Conference outcome: Requires the studies by two Federally funded research and development centers and to include alternative nuclear deterrence postures (Section 1753).

### **Study of non-strategic (tactical) nuclear weapons**

House: No similar provision

Senate: Requires a report describing Russia's deployed non-strategic nuclear weapons, Russia's nuclear weapons in development that would not be covered by the New START if deployed, Russia's non-deployed strategic weapons, China's nuclear modernization program and the implications thereof on the New START central limits (Section 1243).

Conference outcome: Requires a report on current and planned nuclear systems of the U.S., Russia and China that would include Russian nuclear systems deployed or under development not covered by New START (Section 1676).

### **Low-enriched uranium for naval reactors**

House: Adds \$20 million to the Defense Nuclear Nonproliferation budget to conduct research and development on low-enriched uranium for naval reactors (Section 3122).

Senate: Prohibits the obligation or expenditure of any funds at the NNSA to conduct research and development of an advanced naval nuclear fuel system based on low-enriched uranium unless the Secretary of Defense, Secretary of Energy, and Secretary of the Navy submit certain certifications (Section 3115).

Conference outcome: Rejects both House and Senate provisions.

### **Accelerating dismantlement of nuclear weapons**

House: Terminates the prohibition on accelerating nuclear weapon dismantlement and the maximum funds designated to carry out dismantlement and disposition activities (Section 3116)

Senate: No similar provision

Conference outcome: Rather than terminating the prohibition, agrees to increase the limit on dismantlement funding from \$56 million to \$87 million (Section 3119)

### **Saudi Arabia 123 agreement**

House: Prohibits the President from submitting to Congress a Nuclear Proliferation Assessment Statement, unless the corresponding state signs the International Atomic Energy Agency's (IAEA's) Modified Additional Protocol. This language would prevent the United States from signing a 123 Agreement with Saudi Arabia, permitting U.S. companies to export nuclear

technology, until the country allows the IAEA to conduct highly intrusive inspections. (Section 1269).

Senate: No similar provision

Conference outcome: The House version is accepted, but removes the requirement for a joint resolution of approval for a President's waiver to the above amendment.

## **Missile defense provisions**

### **Testing Ground-based Midcourse Defense System**

House: Revises the testing requirement for the Ground-based Midcourse Defense System to include the use of threat-representative countermeasures (Section 1671).

Senate: No similar provision

Conference outcome: House version accepted without an added provision eliminating the ability of the MDA Director to forgo a test of the GMD due to a condition not specified in the 2017 NDAA (Section 1684).

### **Space-based missile defense**

House: Prohibits development of any missile defense capability that could only be deployed in space and removes a Congressionally-directed deadline for a space missile defense test bed (Section 1664).

Senate: No similar provision

Conference outcome: Accepts House position (Section 1682)

### **Ground-based mid-course missile defense**

House: \$960 million, a reduction of \$196 million from the request

Senate: \$1.2 billion, the requested amount

Conference outcome: \$1.237 billion

### **National Academy of Sciences study of missile defenses**

House: Requires a National Academy of Sciences independent study on the impacts of missile defense development and deployment (Section 1672).

Senate: No similar provision

Conference outcome: Approves a study by a federally funded research and development center rather than the National Academy of Sciences (Section 1692).

### **Space Force**

House: Establishes U.S. Space Force within the U.S. Air Force.

Senate: Establishes U.S. Space Force within the U.S. Air Force.

Conference outcome: Establishes the U.S. Space Force in Title 10 as the sixth Armed Service of the United States, under the U.S. Air Force (Section 952).

### **Space-based sensor program**

House: \$108 million; directs the Missile Defense Agency to continue work on a sensor payload for tracking ballistic and hypersonic threats from space (Section 1662).

Senate: \$108 million; encourages acceleration of the program (Section 1673).

Conference outcome: Congress authorizes \$108 million (Section 4201).

### **Particle beam missile defense program**

House: Zero, a reduction of \$34 million from the request

Senate: Zero, a reduction of \$34 million from the request

Conference outcome: Zero, a reduction of \$34 million from the request (Section 4201 chart)

## **Foreign policy, war and military intervention provisions**

### **Military force against Iran**

House: Prohibits unauthorized military force in or against Iran (Section 1229).

Senate: No similar provision, but voted for Udall (D-NM)-Kaine (D-VA)-Merkley (D-OR) amendment 50-40, not meeting the 60 vote threshold for passage, to block war with Iran without prior congressional authorization.

Conference outcome: States nothing in this Act may be construed to authorize the use of military force against Iran or any other country (Section 1284).

### **Policy towards North Korea**

House: Urges the U.S. to pursue a sustained and credible diplomatic process to achieve the denuclearization of North Korea and an end to the 69-year-long Korean War (Section 1250K).

Senate: No similar provision

Conference outcome: Sense of Congress that the U.S. should pursue denuclearization (Section 1257).

### **Verification of North Korea's denuclearization**

House: Authorizes \$10 million to develop and prepare a monitoring and verification program related to the phased denuclearization of North Korea, in coordination with relevant international partners and organizations (Section 3123).

Senate: No similar provision

Conference outcome: Zero funds authorized (Section 4701 chart)

### **U.S. troops in South Korea**

House: Bars reducing U.S. forces in South Korea below 28,500 unless the Secretary of Defense certifies that such a reduction is in the national security interest of the U.S. and will not significantly undermine the security of the U.S. allies in the region (Section 1243).

Senate: Bars reducing the number of U.S. forces in South Korea below 28,500 without prior Secretary of Defense certification (Section 1251).

Conference outcome: Prohibits the Department of Defense from reducing the number of Armed Forces deployed to South Korea below 28,500 unless the Secretary of Defense makes some certifications (Section 1254).

### **Authorization to Use Military Force (AUMF)**

House: Repeals the Authorization for Use of Military Force Against Iraq Resolution of 2002 (Section 1270W).

Senate: No similar provision

Conference outcome: Rejects House provision

### **Assistance to Saudi military operations**

House: Prohibits support to and participation in the Saudi-led coalition's military operations against the Houthis in Yemen (Section 1099X).

Senate: No similar provision

Conference outcome: Rejects House provision

### **Report on overseas military operations**

House: Requires a report on financial costs and national security benefits for overseas military operations, including permanent military installations and bases (Section 1079).

Senate: No similar provision

Conference outcome: House receded to the Senate, but conferees require the Pentagon's annual budget submission to include the actual cost of maintaining the overseas posture and presence in Fiscal Year 2019, with the report to be reviewed by the Comptroller General.

### **U.S. troops in Europe**

House: Bars the withdrawal of the U.S. from NATO (Section 1260A).

Senate: Bars for one year the withdrawal of U.S. forces from Europe if the U.S. withdraws from NATO (Section 1232).

Conference outcome: Prohibits the use of funds to terminate, suspend, or file notice of withdrawal for the United States from NATO (Section 1242).

### **F-35 fighters to Turkey**

House: Prohibits the transfer of an F-35 aircraft to Turkey unless they stop acquisition of the Russian S-400 air defense system (Section 1255).

Senate: Prohibits the transfer of F-35 fighters to Turkey if that country accepts the Russian S-400 air and missile defense system (Section 1236).

Conference outcome: Supports the removal of Turkey from the F-35 program due to its purchase of the S-400 Russian air defense system (Section 163).

### **Afghanistan Security Forces**

House: \$4.5 billion

Senate: \$4.8 billion

Conference outcome: \$4.5 billion

### **Ukraine Security Assistance Initiative**

House: \$250 million

Senate: \$300 million

Conference outcome: \$300 million (Section 1244)

## **Governmental agencies and reports**

### **Operational test and evaluation report**

House: Preserves the requirement for the Pentagon Director of Operational Test and Evaluation to produce a public annual report and sought to extend the sunset provision past January 31, 2021 (Section 252).

Senate: No similar provision

Conference outcome: The sunset provision was extended to January 31, 2025.

### **JASON scientific advisory group**

House: Extends the congressional notification period to 180 days if the Secretary of Defense chooses to terminate its contract with the JASON scientific advisory group and requires that the Secretary receive congressional approval. The amendment also clarifies that JASON provides scientific and technical advice to multiple Federal agencies, including the Department of Defense (Section 215).

Senate: No similar provision

Conference outcome: Largely supports House position (Section 222).

### **Study of nuclear verification, detection and monitoring**

House: Requires the National Academies of Sciences to conduct an independent review of plans and capabilities for nuclear verification, detection, and monitoring of nuclear weapons and fissile material (Section 3121).

Senate: No similar provision

Conference outcome: Requires the National Academies of Sciences to conduct an independent review of plans and capabilities for nuclear verification, detection, and monitoring of nuclear weapons and fissile material (Section 3136).

### **Audits**

House: Requires an annual audit to help identify waste in DoD and requires DoD to submit a plan for achieving an unmodified audit opinion within five years. 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 (Section 1004).

Senate: No similar provision

Conference outcome: Largely supports the House provision (section 1004)

## **Select other provisions**

### **Military pay raise**

House: 3.1%

Senate: 3.1%

Conference outcome: 3.1% (Section 609)

### **Spending Pentagon money at Trump properties**

House: Bars spending Pentagon funds at any property owned by President Trump unless the President reimburses the government (Section 1050A).

Senate: No similar provision

Conference outcome: Rejects House amendment

### **PFAS chemicals**

House: While including a wide range of provisions, the House designates all perfluoroalkyl and polyfluoroalkyl substances (PFAS) as hazardous substances under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). This could expose DOD and other public and private entities to liability under the Superfund law.

Senate: Does not include this provision.

Conference outcome: PFAS provisions were not included

### **Family leave for federal workers**

House: Included 12 weeks of paid family leave for civilian federal employees (Sections 1122 & 1123).

Senate: Did not include this provision

Conference outcome: Provides 12 weeks of paid parental leave for civilian federal employees (Sec. 7602 & 7603).

Sources:

Conference report summary

Text of Joint Explanatory Statement

Bill text