

# The Way Forward for the Fiscal Year 2020 NDAA

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## KEY TAKEAWAYS

The President's budget request reflects a good path forward to provide the resources to meet the challenges outlined in the National Defense Strategy (NDS).

The Conference Committee should make an effort to reduce and eliminate burdensome reporting requirements.

The focus of the work of the NDAA should be to guide the implementation of the changes outlined in the 2018 NDS.

On June 27, 2019, the Senate passed its version of the National Defense Authorization Act (NDAA) by a vote of 86–8.<sup>1</sup> It represented a strong show of bipartisanship and commitment to our nation's defense. Additionally, it demonstrated to our allies and our adversaries that the United States is truly committed to tackling the challenges outlined in the National Defense Strategy (NDS).<sup>2</sup> As Senator Jack Reed (D–RI), the Ranking Member at the Senate Armed Services Committee, stated on the passage of the bill, “Today's strong bipartisan vote shows our commitment to our constitutional responsibility to provide for the common defense.”<sup>3</sup>

Meanwhile, the House of Representatives passed its version of the NDAA with a vote of 220–197 on July 12, 2019.<sup>4</sup> The bill was first passed out of committee on June 13, 2019, by a vote of 33–24 with only two Republicans voting for the bill.<sup>5</sup> The narrow voting margins

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in the House of Representatives represent a fissure in the traditional broad bipartisan support that the NDAA normally receives.<sup>6</sup>

The conference responsible for ironing out the differences between the House and Senate versions of the NDAA contains the opportunity to restore some bipartisanship and to strengthen the nation's defense. This *Issue Brief* will highlight some of the issues that the conference committee ought to address.

## Resources for Defense

The Chairman of Joint Chiefs of Staff, General Joseph Dunford, and the former Secretary of Defense, James Mattis, expressed the importance of having sustained growth in the defense budget in order to rebuild the military and position it properly for great power competition.<sup>7</sup> Their recommendation of sustained 3 percent to 5 percent growth above inflation was seconded by the Bipartisan Commission on the NDS as representative of the resources needed.<sup>8</sup> The \$746.4 billion budget approved by the Senate is a 4.2 percent growth that meets that standard.<sup>9</sup> On the House side, their \$733 billion line is a 2.3 percent growth. It is directionally correct, but more is needed to prepare our military for great power competition.

Additionally, it will be important for Congress to maintain this level of support and commitment to our national defense in future years. The threats outlined by the NDS will require long-term attention and focus. Congress cannot just pass one bill one year and rest on its laurels. It will require constant and cumulative engagement.

## Space Force

Both the House and the Senate versions of the NDAA have provisions that create a Space Force as a part of the Department of the Air Force.<sup>10</sup> The House bill calls it a Corps instead of a Force, but both have a very similar solution to the question of how the United States should organize itself to ensure space dominance.<sup>11</sup> Both bills emphasize restructuring the acquisition system responsible for purchasing space assets under a civilian official and creating a four-star billet responsible for leading the Space Force. The Senate version of the bill would also add a second four-star billet for the Vice Commander, which is an important addition that the House bill does not have.

The main flaw of both bills is their narrow focus on space assets that belong to the Air Force, leaving space organizations outside the Air Force largely untouched. According the Government Accountability Office, there are 60 stakeholders in

space throughout the federal government.<sup>12</sup> Of those, only 12 are under the control of the Air Force. Hopefully, this is just the start of the process and the Space Force is able to incorporate other space organizations in the future.<sup>13</sup>

## F-15EX

President Trump's budget request called for the purchase of eight F-15EXs, a previous-generation fighter aircraft. The Senate NDAA authorized that purchase. The House, on the other hand, took a more prudent approach. It authorized the purchase of two units as prototypes, with the next six contingent on the Pentagon delivering a report that, among other things, outlines the life-cycle sustainment plan for the aircraft.

The ideal choice would be to not purchase them at all. As outlined by Heritage's Senior Fellow John Venable, the F-15EX "could never survive in a modern day, high-threat environment, and...it would be soundly defeated by an F-35 in almost any type of air-to-air engagement."<sup>14</sup> Some point to the need for an aircraft for domestic employment. However, buying an \$80.3 million aircraft to shoot down civilian airliners is irrational. Others make an argument to buy the F-15EX on cost. Nevertheless, the argument is made by looking at different points of program maturity, without projecting the normal reductions in cost that will come as the F-35 matures. All in all, the money would be better invested elsewhere, especially in buying more F-35s.

## Low-Yield Nuclear Warheads

The House NDAA prohibits the use of funds to deploy a low-yield ballistic missile warhead. The goal of deploying low-yield warheads is to add a credible rung to the escalation ladder. As explained by Heritage's Research Fellow Michaela Dodge, "If an adversary thinks the U.S.' only option in response to an adversary's limited nuclear use is to use U.S. high-yield nuclear weapons, an adversary might be tempted to use his low-yield nuclear weapons thinking that U.S. response options are not credible."<sup>15</sup> The diversification of the American nuclear arsenal will provide more options that are credible for decision makers—and thus create more avenues to de-escalate conflicts. The House should drop its prohibition.

## European Deterrence Initiative

Both versions of the NDAA contain provisions that would request the Department of Defense to provide Congress with future years' defense

program for the European Deterrence Initiative (EDI). Developing this program is a necessary step towards making EDI more credible, predictable, and effective. The Initiative started as an ad hoc response to Russian aggression and has become an important part of American forward presence in Europe. It should be a part of the regular defense budget and its regular planning process, having the five-year program is a good step in that direction.<sup>16</sup>

## General Transfer Authorities

The House version of the NDAA follows the lead of the House appropriators and reduces the general transfer authority of the Department of Defense from \$4 billion to \$1 billion.<sup>17</sup> The Senate version sets its general transfer authority at \$4 billion. The reduction is a reaction to the method President Trump used to fund the construction of physical barriers in the southern border. While the sentiment is understandable, by reducing general transfer authority, Congress is reducing the financial flexibility of the Pentagon without actually changing any outcome on the border debate. The result of this reduction would be that the Pentagon would be severely hamstrung in its ability to manage its budget and would lower readiness.

## Recommendations

When considering the NDAA for fiscal year 2020, Congress should:

- **Fully fund the Department of Defense.** The President's budget request reflects a good path forward in providing the necessary resources to meet the challenges outlined in the NDS. The Bipartisan Commission on the NDS outlined that a 3 percent to 5 percent above-inflation increase is representative of the resources required to fulfill the NDS.<sup>18</sup> The President's budget request and the Senate version of the NDAA meet that criterion, while the level approved by the House Armed Services Committee does not. The Conference Committee should adopt the \$750 billion topline.
- **Refrain from burdensome reporting requirements.** The NDAA can easily read as a laundry list of reporting requirements for the Department of Defense, the Government Accountability Office, and occasionally a federally funded research institution or a think tank. Lawmakers have a tendency to see these reporting requirements

as being cost-free, when in reality, they add up—and usually have their costs printed on the second page. They are also very prevalent in the amendment process, where lawmakers find a way to require the Pentagon to study their favorite issue or the coming wedge issue. These reports can be important accountability and oversight tools for both Congress and the public. Nonetheless, lawmakers should be aware of the quantity and scope of the reports and be judicious in their requests. The Conference Committee should make an effort to reduce and eliminate reporting requirements.

- **Focus on the necessary steps to implement the National Defense Strategy.** Since the release of the NDS in January 2018, the focus of the work both for the Pentagon and for the committees with NDS oversight responsibilities should be to guide the implementation of the changes outlined in the strategy. The call to focus on great power competition requires long-term commitment, and it will take time to implement. Congress needs to be an active participant in establishing this new focus for our nation's defense.

## Conclusion

There is a lot of forward progress being made in both versions of the NDAA. However, there are also very important choices that the Conference Committee will have to make that will shape how far this forward progress takes the Department of Defense and the nation. It is important to highlight that both chambers acknowledge the need to increase the defense budget to tackle the challenges outlined in the NDS. There is room for improvement, but both bills are largely pointed in the right direction.

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## Endnotes

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