

# **Fact Sheet: Selected Highlights of the FY2017 National Defense Authorization Act (H.R. 4909)**

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Following are selected highlights of H.R. 4909, the FY2017 National Defense Authorization Act (NDAA) reported by the House Armed Services Committee on May 4, 2016 (H.Rept. 114-537). This CRS Fact Sheet is designed as a time-urgent product offering Members the best available information pending publication of a CRS report on the FY2017 defense funding legislation.

## **Background**

Congressional action on the FY2017 National Defense Authorization Act (NDAA) has been fundamentally shaped by the legally binding caps on discretionary spending for defense programs and for non-defense programs, which were established by P.L. 114-74, the Bipartisan Budget Act of 2015 (BBA). A central issue before Congress is the extent to which Congress and the President will approve Department of Defense (DOD) funding for FY2017 that (1) exceeds the relevant BBA cap; and (2) is exempt from that spending cap because it is classified as funding for so-called Overseas Contingency Operations (OCO).

The 2015 BBA increased binding caps on defense and non-defense discretionary appropriations for FY2016 and FY2017, which originally had been codified by the Budget Control Act (BCA) of 2011 (P.L. 112-25). Those spending caps are enforced by a process of “sequestration.”<sup>1</sup>

However, the BCA caps do not apply to appropriations designated both by Congress and by the President as funding either (1) for an emergency, or (2) for OCO purposes. The “non-OCO” share of the annual DOD budget is referred to as the “base” budget. The OCO category—which is not defined in law—was adopted by the Obama Administration in 2009 to encompass funding associated with operations in Iraq and Afghanistan. In subsequent budgets, the number of operations funded has increased and the scope of funding designated as OCO has expanded.

In addition to raising the binding caps on defense and non-defense spending, the 2015 BBA identified non-binding target levels of OCO funding for FY2016 and FY2017 for both the DOD budget and international affairs budget<sup>2</sup> (which falls into the non-defense category).

The FY2017 NDAA debate may focus, in part, on the difference between the Administration and the House committee over how much of the FY2017 DOD budget designated as OCO funding—and thus exempt from the budget caps—would be used for base budget purposes. The Administration’s DOD budget request included \$5.1 billion in OCO funding to support base budget requirements and the House committee bill would increase that amount to \$23.1 billion.

## **H.R. 4909 as Reported by the House Armed Services Committee**

In comparing the Administration’s FY2017 defense budget request and H.R. 4909 as reported by the House Armed Services Committee, the total amounts designated for base budget requirements are very similar and are in alignment with the BBA cap for FY2017. Likewise, the total OCO amounts reflect the BBA—the Administration request and the House committee-reported bill each designate \$58.8 billion of the amount authorized for DOD as OCO funding. (See **Table 1.**)

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<sup>1</sup> See CRS Report R42972, *Sequestration as a Budget Enforcement Process: Frequently Asked Questions*, by Megan S. Lynch.

<sup>2</sup> This is designated the State Department, Foreign Operations and Related Programs (SFOP) budget.

**Table 1. FY2017 National Defense Authorization Act (H.R. 4909)**

amounts in millions of dollars of discretionary budget authority

| Bill Title                                                       | Budget Request   | HASC reported bill (H.R. 4909) | Senate committee-reported bill | Conference Report |
|------------------------------------------------------------------|------------------|--------------------------------|--------------------------------|-------------------|
| <b>National Defense Base Budget</b>                              |                  |                                |                                |                   |
| Procurement                                                      | 101,971.6        | 103,062.3                      |                                |                   |
| Research and Development                                         | 71,391.8         | 71,629.8                       |                                |                   |
| Operation and Maintenance                                        | 171,318.5        | 169,325.3                      |                                |                   |
| Military Personnel                                               | 135,269.2        | 134,849.8                      |                                |                   |
| Defense Health Program and Other Authorizations                  | 36,557.0         | 37,025.6                       |                                |                   |
| Military Construction/Family Housing                             | 7,444.1          | 7,694.0                        |                                |                   |
| <b>Subtotal: DOD Base Budget</b>                                 | <b>523,952.1</b> | <b>523,586.9</b>               |                                |                   |
| Atomic Energy Defense Activities                                 | 19,240.5         | 19,512.1                       |                                |                   |
| Other Defense-Related Agencies                                   | 211.0            | 300.0                          |                                |                   |
| <b>TOTAL: National Defense Budget Function (050) Base Budget</b> | <b>543,403.6</b> | <b>543,399.0</b>               |                                |                   |
| <b>DOD OCO Budget</b>                                            | <b>58,798.0</b>  | <b>58,793.5</b>                |                                |                   |
| <b>GRAND TOTAL: FY2017 NDAA</b>                                  | <b>602,201.6</b> | <b>602,192.5</b>               |                                |                   |

**Source:** H.R. 4909 and H.Rept. 114-537, Report of the House Armed Services Committee to accompany H.R. 4909.

**Note:** Funds appropriated for defense are exempt from the budget caps only if both Congress and the President designate them as OCO or emergency funds. (See 2 U.S.C. Section 901 b.)

In the Administration's budget request, DOD and the foreign affairs agencies (the latter falling under the "non-defense" BBA spending caps) were slated to use certain OCO-designated funds for base budget purposes—\$5.1 billion in the case of DOD and a similar amount for the international affairs agencies.<sup>3</sup> If approved by Congress, the practical effect of this would be to allow both defense and non-defense spending to exceed the FY2017 BBA caps (by those amounts) without triggering sequestration.

For FY2017, the House Armed Services Committee bill would dedicate \$23.1 billion of OCO-designated funding to DOD base budget purposes—\$18.0 billion more than the Administration proposed. Heretofore, the Administration and the minority leadership in both chambers have objected to providing defense funding for base budget requirements in excess of the spending cap unless it is accompanied by comparable increase in funding for non-defense programs. It was on

<sup>3</sup> The Administration's FY2017 budget justification material for the Department of State, Foreign Operations, and Related Programs makes several references to the transfer of some funding from the base budget to OCO in accord with the provisions of the 2015 BBA. In contrast to DOD, the State Department published no estimate of the amount of funding involved. However, comparing the OCO budget for FY2016 and the OCO request for FY2017 with the OCO budget for FY2015—the last year of funding not affected by BBA – the international affairs budget's "OCO-for-base" amount appears to be in excess of \$5.0 billion—roughly the same as in the DOD budget request. See Congressional Budget Justification Material for the Department of State, Foreign Operations, and Related Agencies <http://www.state.gov/documents/organization/252179.pdf>, pp. 137-38.

these grounds that President Obama explained his veto in 2015 of H.R. 1735, the first version of the FY2016 NDAA.<sup>4</sup>

According to the House committee, the remaining OCO funds authorized by H.R. 4909—amounting to \$35.7 billion—would cover the cost of OCO through April 2017.<sup>5</sup> By then, the committee says, the newly elected President could request a supplemental appropriation to cover OCO funding requirements through the remaining months of FY2017.

**Table 2. Selected Congressional Budget Reductions and Prohibitions**

| Issue                                                                                                                                                                                                                                   | House committee-reported (H.R. 4909)                                                                                                                                                                                                                                                                                    | Senate committee-reported bill | Conference Report |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|-------------------|
| Administration's allocation to base budget purposes of \$5.1 billion designated as OCO (thus <b>increasing the amount of base budget spending</b> exempt from the budget caps while decreasing the amount of funding for OCO purposes). | Allocates for base budget purposes \$23.1 billion designated as OCO funding (to avoid breaking the budget caps)—\$18.0 billion more than the Administration proposed; Remainder of OCO authorization would cover OCO costs through April 2017, after which supplemental appropriations would be required for OCO costs. |                                |                   |
| Administration efforts to close the detention facility at <b>Guantanamo Bay</b> , Cuba                                                                                                                                                  | Prohibits transferring detainees to the United States (Section 1032)                                                                                                                                                                                                                                                    |                                |                   |
| Funds cut from the request on grounds that <b>unobligated balances</b> from prior budgets will make up the difference                                                                                                                   | Cuts \$1.77 billion                                                                                                                                                                                                                                                                                                     |                                |                   |
| <b>Fuel prices</b> assumed in the budget request                                                                                                                                                                                        | Cuts \$1.45 billion on the assumption that actual prices in FY2017 will be lower                                                                                                                                                                                                                                        |                                |                   |
| <b>Foreign currency</b> exchange assumptions                                                                                                                                                                                            | Cuts \$429 million on the assumption that the goods and services bought by U.S. forces abroad will cost less than budgeted due to value of the dollar                                                                                                                                                                   |                                |                   |

**Source:** H.R. 4909 and H.Rept. 114-537, Report of the House Armed Services Committee to accompany H.R. 4909.

<sup>4</sup> U.S. President (Barack Obama), "Veto Message—H.R.1735," at <https://www.whitehouse.gov/the-press-office/2015/10/22/veto-message-hr-1735>.

<sup>5</sup> H.R. 4909's authorization for Operation and Maintenance (O&M) funding designated as OCO would expire on April 20, 2017 (Section 1504).

Table 3. Selected Administration Policy and Cost-Cutting Proposals

| Administration Proposal                                                                                                                 | House committee-reported (H.R. 4909)                                                                                                                                                    | Senate committee-reported bill | Conference Report |
|-----------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|-------------------|
| 1.6% raise in <b>Military Basic Pay</b> in lieu of the 2.1% raise that otherwise would occur by law <sup>a</sup>                        | Requires that pay be increased by 2.1% (Section 601); adds to the budget request \$330 million (in OCO funds)                                                                           |                                |                   |
| Reduce <b>military end-strength</b> by 27,015 active and 9,800 reserve component personnel                                              | Adds to the Administration's end-strength request 28,715 active and 25,000 reserve personnel; adds to the request \$3.24 billion (in OCO funds)                                         |                                |                   |
| Introduce some new <b>TRICARE fees</b> and increase some existing fees and copays                                                       | Establishes TRICARE fees and copays similar to Administration's proposal (Section 701)                                                                                                  |                                |                   |
| Remove from service seven <b>Aegis cruisers for modernization</b> and eventual 1-for-1 replacement of cruisers now in service           | Requires that no more than six cruisers be inactivated at one time and that contracts be signed for their modernization (Section 1024); adds \$202 million for operation (in OCO funds) |                                |                   |
| Disband 1 (of 10) active-duty <b>carrier air wings</b> (requiring change in current law)                                                | Rejects proposed amendment to current law; adds \$86 million for wing operations (in OCO funds)                                                                                         |                                |                   |
| To meet BBA budget caps, reduce FY2017 <b>aircraft procurement</b> funding by 12% (\$4.34 billion) below amount projected in early 2015 | Adds a total of \$5.9 billion to the requested aircraft procurement authorization accounts (using OCO funds to avoid breaking budget caps)                                              |                                |                   |
| Plan a Base Realignment and Closure ( <b>BRAC</b> ) round <sup>b</sup>                                                                  | Prohibits the use of funds for a BRAC round (Section 2707); cuts \$3.5 million slated for BRAC planning                                                                                 |                                |                   |

**Source:** H.R. 4909 and H.Rept. 114-537, Report of the House Armed Services Committee to accompany H.R. 4909.

**Notes:**

- a. For background, see CRS In Focus IFI0260, *Military Pay Raise*, by Lawrence Kapp.
- b. For background, see CRS In Focus IFI0362, *The President's FY2017 Military Construction Budget Request*, by Daniel H. Else.

**Table 4. Selected Congressional Budget Increases and Policy Initiatives**

| Issue                                                     | House committee-reported (H.R. 4909)                                                                                                                                                                                                                                 | Senate committee-reported bill | Conference Report |
|-----------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|-------------------|
| <b>Registration of Women for the Military Draft</b>       | Required by Section 528, adopted as a committee amendment by a vote of 32-30                                                                                                                                                                                         |                                |                   |
| <b>Troop levels in Afghanistan</b>                        | Adds \$2.33 billion to support deployment of 9,800 U.S. troops (rather than 5,500 as proposed by the Administration)                                                                                                                                                 |                                |                   |
| <b>Ballistic Missile Defense of U.S. Territory</b>        | Adds \$300 million (using OCO funds to avoid breaking budget caps); directs DOD to demonstrate space-based missile defense by 2025 (Section 1656)                                                                                                                    |                                |                   |
| <b>Israeli Missile Defense Systems</b>                    | Adds \$455 million                                                                                                                                                                                                                                                   |                                |                   |
| <b>Ship Procurement</b>                                   | Increases shipbuilding procurement account by a total of \$2.3 billion (in OCO funds); Includes funds for one Littoral Combat Ship, partial funding for a destroyer and an amphibious landing transport, and funds to accelerate construction of an aircraft carrier |                                |                   |
| <b>Maintenance and Repair of Facilities</b>               | Adds \$2.4 billion (in OCO funds)                                                                                                                                                                                                                                    |                                |                   |
| <b>Navy and Air Force Depot Maintenance and Readiness</b> | Adds \$955 million                                                                                                                                                                                                                                                   |                                |                   |
| <b>Army Recruiting and Advertising</b>                    | Adds \$357 million                                                                                                                                                                                                                                                   |                                |                   |
| <b>National Guard and Reserve Equipment</b>               | Adds \$250 million                                                                                                                                                                                                                                                   |                                |                   |

**Source:** H.R. 4909 and H.Rept. 114-537, Report of the House Armed Services Committee to accompany H.R. 4909.

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