



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

June 26, 2018  
(Senate)

# FOLLOW-ON TO STATEMENT OF ADMINISTRATION POLICY

## S. 2987 – John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Sen. Inhofe, R-OK)

The Administration appreciates the continued work of the Senate Armed Services Committee (Committee) on behalf of our national defense. The annual National Defense Authorization Act (NDAA) is an essential step in securing the Nation, and the Administration supports ultimate passage of an NDAA for the 57th consecutive year.

The Administration appreciates the bill's provisions that would enable implementation of the National Security Strategy and the National Defense Strategy (NDS), both of which focus on a return to principled realism in an era of great power competition. The bill's overall authorizations of base national defense funding and Overseas Contingency Operations funding are consistent with the Bipartisan Budget Act of 2018 and the President's Fiscal Year (FY) 2019 Budget request.

The Administration provides the Congress with additional information regarding the John S. McCain National Defense Authorization Act for FY 2019, as outlined below.

ZTE-related provisions. The Administration strongly objects to section 6702, as it would disturb the traditional allocation of powers between the legislative and executive branches. The provision undermines the very purpose of the relevant export control regulations—which is to coerce non-compliant parties to stop engaging in behavior contrary to the national security interests of the United States. As a result of the imposition of penalties and the suspension of those penalties in the most recent agreement reached by the Department of Commerce, the United States secured a fine of an unprecedented amount, changes to the ZTE board of directors, and real-time monitoring by U.S. compliance officers to ensure ZTE does not again violate U.S. export controls. No other company is subject to such oversight. A statutory bar on relief would eliminate key incentives for ZTE or any other company to come into compliance with U.S. export controls, even if it is in the national security interest of the United States to maintain these incentives. Sections 891 and 6702 also seek to prohibit executive agencies from procuring certain telecommunication equipment and services. The Administration would support a prospective Federal procurement ban on Huawei and ZTE equipment or products in legislation similar to the provision in H.R. 5515, the NDAA for FY 2019, as passed by the House, but in a way that provides flexibility in implementation to maintain the ability of executive departments and agencies to accomplish their missions. The current provision fails to adequately address unintended consequences of such a broad prohibition and the loopholes that would remain, and the Administration looks forward to addressing these

concerns with the Congress. Further, the Administration is working to establish a strategic statutory framework to protect our Federal supply chain by conducting supply chain risk assessments, creating mechanisms for sharing supply chain information, and establishing exclusion authorities—both within agencies and in a centralized manner—to be utilized when justified.

Yemen Certifications. The Administration strongly objects to section 1266. The Administration shares the concern of the Congress regarding the humanitarian situation in Yemen. Section 1266 inaccurately implies, however, that the Saudi-led coalition is the only party to the conflict whose actions have resulted in the dire humanitarian situation in Yemen. The provision fails to address material support the Government of Iran has provided to the Houthis in order to foment the conflict in Yemen in opposition to the Yemeni government. While the provision acknowledges the threat posed by ballistic missiles, it ignores several classes of threats the Houthis have posed and demonstrated to partners of the United States because it does not permit, as an exception to the ban, air-to-air refueling in support of force protection missions for coalition forces and missions in defense of Saudi territory threatened by the Iranian-backed Houthis. The provision's serious deficiencies are not resolved by the inclusion of a waiver.

Committee on Foreign Investment in the United States (CFIUS). The Administration supports the Foreign Investment Risk Review Modernization Act of 2018 (FIRRMA). Modernizing CFIUS in line with FIRRMA would achieve the twin aims of protecting national security and preserving the longstanding United States open investment policy. At its core, FIRRMA would expand the scope of transactions reviewable by CFIUS to more effectively address national security concerns that fall outside the current scope of CFIUS review. FIRRMA would allow CFIUS, which was last updated 10 years ago, to adjust its procedures to ensure that the process is tailored, efficient, effective, and administrable. Additionally, FIRRMA would require an assessment of the resources necessary for CFIUS to sustain its critical work.

Afghan Special Immigrant Visas (SIV). The Administration appreciates the inclusion of section 1214 to assess the health of the SIV application process, but is disappointed the bill does not include the requested provision allowing for 4,000 additional Afghan SIVs for FY 2019. Without allocating additional visas, there will be no authority to fully address the current pipeline of eligible individuals estimated at approximately 16,700 or any further eligible individuals who apply before the December 2020 deadline.

Plutonium Disposition. The Administration strongly objects to section 3118, which would direct construction of the Mixed Oxide (MOX) Fuel Fabrication Facility. The MOX project is billions of dollars over budget and years behind schedule. Independently validated estimates show construction costs have ballooned to \$17 billion, with \$12 billion remaining. In addition, the projected operating costs for the MOX facility are between \$800 million and \$1 billion per year for nearly two decades. It would be irresponsible to pursue this approach when a far more cost-effective alternative exists. Furthermore, the decision to terminate the MOX project provides an opportunity to pursue a recommended alternative for Plutonium Pit Production that repurposes the MOX facility, minimizing risk, with a two-site solution that improves the resiliency and responsiveness of the nuclear security enterprise. Any delay to terminating the MOX project puts our national security at risk by jeopardizing the National Nuclear Security Administration's (NNSA) ability to meet DOD's plutonium pit production requirements on schedule.

Department of Energy (DOE) Management Relationships. The Administration strongly objects to elements of section 3111 because it would fundamentally alter the relationship between DOE and NNSA by stripping the Secretary of Energy of the capacity to supervise some of the most sensitive national security programs in the DOE, yet leaving ultimate responsibility for NNSA's actions with the Secretary. Section 3111 would subject the Secretary's executive decisions in managing NNSA to 15-day congressional committee review periods. The bill would also: (1) limit the Secretary's oversight of NNSA to matters of health and safety; (2) restrict the authority of the Secretary to establish requirements for DOE that would apply to NNSA in areas other than "environment, safety and health operations," thereby usurping the Secretary's authority to set DOE-wide policy in such critical areas as safeguards and security, cyber security, information management, fiscal operations, integrated safety management, emergency management, and counterintelligence; and (3) make the NNSA General Counsel independent of DOE's General Counsel. Collectively, in divorcing the Secretary from any meaningful authority over NNSA operations, the changes proposed by this bill would remove the ability of the Secretary to render coherence to the conduct of the civil and national security science functions of DOE, an ability that has been a key element in enabling DOE and its predecessors to carry out significant national security programs involving the frontiers of science. The bill would also degrade the Secretary of Energy's ability to protect health, safety, and security of DOE's employees and the American public. The Administration appreciates the Committee's support, however, for repealing the statutory cap on Federal employees, which is necessary to allow the NNSA to hire sufficient staff to carry out its nuclear modernization efforts.

Acceleration of Hypersonic Missile Defense Program. The Administration strongly objects to section 1659, which would direct the Missile Defense Agency to deploy a hypersonic missile defense program in conjunction with a persistent, space-based, missile defense program. DOD is currently performing a Defense Against Hypersonic Threats Analysis of Alternatives to develop options and recommendations on how to proceed. It is premature to pursue a solution until this analysis is complete.

Development and Deployment of Persistent Space-Based Sensor Architecture. The Administration strongly objects to section 1660C, which would direct the Missile Defense Agency (MDA) to begin the development of a persistent space layer by December 2018 and deploy it by 2022. DOD is currently pursuing space-based sensing capabilities and additional sensors could provide value for our missile defense capabilities. The required timelines, however, are aggressive and may not allow DOD to pursue an effective and technically feasible sensor architecture in a realistic or cost-effective manner.

Modification of Requirement to Develop a Space-based Ballistic Missile Intercept Layer. The Administration strongly objects to section 1660D, which would direct the MDA to deploy a space-based ballistic missile intercept layer. DOD is examining multiple ways to enhance our missile defense capabilities; directing the development of a space-based layer is premature at this point and creates a large unfunded mandate.

Missile Defense Programs. The Administration objects to the proposed reduction of \$50 million to the Command and Control, Battle Management and Communications (C2BMC) for inconsistent

capability delivery. C2BMC is the integrating element of the Ballistic Missile Defense System (BMDS) and is vital to integration of nearly all future ground and space sensors for improved BMDS capability, including discrimination. The Administration also objects to language in section 1655 which would limit the funds authorized to be appropriated in FY 2019 for C2BMC to not more than 50 percent until the Director of the MDA develops operationally-relevant metrics in coordination with the Director of Operational Test and Evaluation for evaluating the effectiveness of the BMDS against realistic ballistic missile attacks. These provisions would delay by one year the integration into the BMDS of the Long Range Discrimination Radar and the planned 2021 BMDS enhanced homeland defense capability delivery that includes the improved defense of Hawaii, Alaska, and the continental United States from intercontinental ballistic missile threats and hypersonic track and reporting. The funding limitation also would delay, by at least one year, the integration of Homeland Defense Radar-Hawaii and Space-based Kill Assessment sensors and Post Intercept Assessment development planned for 2023 capability delivery. In addition, MDA would not be able to comply with section 883 of the bill.

End Strength. The Administration objects to the Committee's insufficient support for DOD's requested increases in end strength. In sections 401 and 411, respectively, the bill authorizes 8,639 fewer active component end strength and 800 fewer reserve component end strength than DOD requested. One of the primary objectives of the FY 2019 request, which fully aligns with the NDS, is to invest in DOD's most important asset: people. Failure to authorize the necessary end strength growth could impose critical delays on efforts to improve readiness by increasing manning levels to reduce personnel and operational tempo, as well as to generate expanded availability for full-spectrum training opportunities. Further, to realize the lethality increases from the significant investment in new ships and other weapons systems, it is imperative that DOD have the high-quality, fully trained personnel available and in-place.

Assistance to Counter the Islamic State of Iraq and Syria (ISIS). The Administration objects to section 1221(c), which would make \$400 million in authorized train and equip funding for Iraq contingent on the submission of two reports to the Congress (an Iraq strategy, as well as an explanation of the purpose of continuing U.S. military presence in Iraq). The Administration also objects to section 1222(b)(1)(A), which would make the entirety of the \$300 million in authorized train and equip funding for Syria contingent on the submission of a Syria strategy to the Congress. Both the reports in section 1221(c) and the strategy required in section 1222(b)(1)(A) are much broader in scope than the Defeat ISIS operations that this funding directly supports. Restrictions on or gaps in funds that underpin the U.S. strategy of defeating ISIS by, with, and through partner forces—including the vetted Syrian Democratic Forces—would impede our ability to secure a lasting defeat of ISIS in Iraq and Syria and would limit the Secretary of Defense's ability to act in the national security interest of the United States. Also, the quarterly reporting requirement for the Counter-ISIS Train and Equip Fund appropriation remains in effect, and DOD regularly briefs committees on its use of these authorities and funds, including with respect to the Defeat ISIS campaign.

Detention Facilities at Naval Station Guantanamo Bay. The Administration strongly objects to the absence of the authorization for military construction of a High-Value Detention Facility at Naval Station Guantanamo Bay. The President has ordered continued detention operations at Naval Station Guantanamo Bay. The current facility for high-value detainees is experiencing structural

and system failures that, if unaddressed, could in the future pose life and safety risks to our guard forces and the detainees being held there, and it also does not meet the requirements of the aging detainee population.

Funding Treatment of Perfluorooctane Sulfonic Acid (PFOS) and Perfluorooctanoic Acid (PFOA) at State-Owned and Operated National Guard Installations. The Administration strongly objects to subsection 315(h) because it goes beyond the underlying purposes of section 315, is not necessary for its implementation, raises additional issues beyond the treatment of PFOS/PFOA in drinking water, and is potentially of enormous cost. In addition, subsection 315(e) is not a workable funding provision and, if not corrected, could lead to general failure of the intent. The Administration looks forward to working with the Congress to develop a more tailored approach to address PFOS and PFOA.

Oversight and Management of the Command, Control and Communications System for the National Leadership of the United States. The Administration objects to section 1641, which would prematurely place the national leadership command, control, and communications systems under a single individual. While the Administration appreciates congressional interest and intent in this area, the Administration opposes directive language mandating specific outcomes while DOD is in the midst of significant nuclear command, control, and communications (NC3) governance reform. Planning, implementation, and execution of NC3 governance reform is DOD's number one priority within the broader national leadership command and control portfolio. The Secretary of Defense recently directed that the Deputy Secretary of Defense and Chairman of the Joint Chiefs of Staff (CJCS) be responsible for the oversight and strategic portfolio management of NC3. Overly prescriptive and premature legislative changes outlined in section 1641 would complicate the Office of the Secretary of Defense's (OSD) ongoing active engagement to establish NC3 capability portfolio management, negatively affecting the overall NC3 governance reform implementation effort being led by the Commander of U.S. Strategic Command for DOD.

Strategic Guidance Documents within DOD. The Administration objects to section 1031 as currently written. The proposed new requirement to communicate written guidance to the Congress in the form of contingency planning guidance or guidance for employment of the force and the Global Defense Posture Review would create a precedent for transmitting force employment guidance to the Congress in a way that could be perceived as making detailed planning for the operational employment of military forces subject to congressional approval. It would also overlap with the CJCS's existing responsibilities for strategic and contingency planning in 10 U.S.C. §153. The current statute, which directs a briefing on the guidance, provides for congressional oversight while protecting sensitive operational details. The Secretary of Defense already allocates forces responsively using the Global Force Management Implementation Guidance and the Global Force Management Allocation Plan to produce and adjust adaptable and feasible plans. Additionally, submission of force employment guidance to the Congress, along with "any written implementation documentation produced by the Chairman of the Joint Chiefs of Staff," would require transmitting to the legislative branch detailed campaign and contingency planning documents that have traditionally been withheld under Executive privilege.

Modification of Rapid Acquisition and Deployment Procedures. The Administration strongly objects to section 1265(c), which would modify the rapid acquisition and deployment procedures

to severely limit their use to only the urgent production of precision guided munitions. This change would cause significant damage to the current authority granted to the Secretary of Defense by section 806 of the Bob Stump NDAA for FY 2003. The Secretary uses this authority to quickly respond to a wide variety of combat emergencies and certain urgent operational needs, not just precision guided munitions, as section 1265(c) would require.

Redesignation and Modification of Responsibilities of Under Secretary of Defense for Personnel and Readiness (USD(P&R)); Assistant Secretary of Defense for Strategy, Plans, Assessments, Readiness, and Capabilities. The Administration objects to section 902, which would change the name of the USD(P&R) to the Under Secretary of Defense for Personnel and also change its responsibilities. Realigning readiness into the new Assistant Secretary of Defense (ASD) for Strategy, Plans, Assessments, Readiness, and Capabilities, under the Under Secretary of Defense for Policy -- as established in section 905 -- would dilute the ability of the ASD to focus on critical focus areas, including building readiness aligned to the demands of the NDS, operational safety, training, and professional military education. Moreover, separating readiness from the personnel function breaks the mutually supporting relationship that enables critical collaboration between the two mission areas of USD(P&R). Additionally, section 905 could overlap with some of the functions of the CJCS in 10 U.S.C. §153 for strategic direction, strategic and contingency planning below the level of policy guidance, and global military integration, as well as the Chairman's comprehensive joint readiness responsibilities.

Modification of the President's Authority to Determine Alternative Pay Adjustment in Annual Basic Pay of Members of the Uniformed Services. The Administration strongly objects to section 605, which would restrict the President's authority to set an alternative pay adjustment for members of the uniformed services. This change would place more restrictions on the President's ability to set pay for members of the uniformed services than for the Federal civilian workforce. Being able to adjust military compensation nimbly in response to economic conditions affecting the general welfare is not only essential to the Administration's responsibility to recruit and retain a ready and lethal force, but it is also required to balance military compensation costs against other investments, which are critical to both achieving the Administration's strategic goals and executing the NDS.

Authorities of Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces. The Administration strongly objects to section 543, which could reveal the identities of victims of sexual assault who choose to make restricted reports and could result in sharing highly personal, privileged information about victims with a Federal advisory committee without notice to or permission from the victim. Providing the Federal advisory committee such blanket authority to request information from all Federal agencies risks the sustained progress that DOD has made in recent years to ensure that adult sexual assault victims have confidence in the military justice system to protect their victim's rights and trust that, if they choose to file a restricted report, their information will be kept confidential.

Cyberspace. The Administration strongly supports the Committee's recognition in section 1622 that military operations in cyberspace constitute traditional military activities. This affirmation is critical to ensuring that all elements of national power may be brought to bear in support of national security objectives. The Administration strongly objects, however, to section 1621(f),

which would damage the national security interests of the United States by endorsing certain foreign policy and military determinations that are traditionally within the President's discretion, informed by the facts and circumstances prevailing at the time. If adopted, the policy described in section 1621(f) would needlessly limit our options and would also alert current and potential adversaries to U.S. targets of interest. The Administration also objects to subsection (e)(3) of section 1621, which appears to set an impractical standard for attribution. The Administration agrees that efforts to improve attribution are important, but "positively attributing an attack with high confidence" may not be technically possible in many circumstances.

Technical Corrections to Certain Cyberspace Matters. The Administration strongly objects to section 6601, particularly subsection (a), as it would prevent DOD from responding to the types of significant cyber attacks and malicious cyber activities to stop attacks in circumstances where attribution may not be feasible or immediately apparent. Non-state actors and organizations could do great harm to us through cyberspace and we may not be able to establish a clear connection to a foreign power in time to take action to mitigate or prevent harm. The Administration also objects to subsection (b). This provision could prevent DOD from providing support to the Department of Homeland Security, the FBI, or other Federal, State, local, tribal, or territorial governments if the attack or malicious activity were deemed to be within or emanating from the United States.

Updates and Modifications to Department of Defense Form 1391, Unified Facilities Criteria, and Military Master Plans. The Administration strongly objects to section 2811, which would require the Secretary of Defense to include an energy study or life-cycle cost analysis for each military construction project submitted in the President's budget request. This requirement would significantly delay project execution by necessitating that DOD complete substantial design (50-80 percent design completion) before budget submission in order for the designer to produce the required energy study and life-cycle cost items and thereby, would degrade military readiness. This section would also mandate the re-establishment of flood risk mitigation measures that were eliminated with the cancellation of E.O. 13690 (January 30, 2015) and are contrary to the Administration's policy.

Modification of Criteria for Waivers of Requirement for Certified Cost and Price Data. The Administration strongly objects to section 817, which would allow the requirement to submit certified cost and pricing data to be waived without first establishing that the data cannot be obtained from the contractor, when needed, at the contracting officer's request to support a price reasonableness determination. Section 817 would place contracting officers at a significant disadvantage in negotiating fair and reasonable prices by providing the opportunity to contractors to refuse to submit certified cost or pricing data when the Government determines such data is necessary, resulting in increased cost to the taxpayers and DOD.

Powers and Duties of the Under Secretary of Defense for Research and Engineering (USD(R&E)) in Connection with Priority Emerging Technologies. The Administration objects to section 901. As drafted, the provision provides unique temporary authority rather than normalizing USD(R&E)'s authority consistent with other OSD officials. This provision is inconsistent with the authorities granted by the Secretary of Defense to the Service Secretaries and further defined by the Congress.

Pilot Program on Modeling and Simulation in Support of Military Homeland Defense Operations in Connection with Cyber Attacks on Critical Infrastructure. The Administration objects to section 1630, which would direct DOD to carry out a pilot program to identify and develop means of improving responses to combined disasters and cyber attacks on critical infrastructure, and to promote multi-State mutual assistance compacts to share resources with respect to such disasters and attacks. The Department of Homeland Security—not DOD—is the lead Federal agency responsible for critical infrastructure protection, supporting State and local cyber security, and leads the Nation’s efforts to prepare for, protect against, respond to, recover from, and mitigate against the risk of natural disasters, acts of terrorism, and other man-made disasters (e.g., cyber attacks), including catastrophic incidents. In addition, the Federal Emergency Management Agency is responsible for promoting and facilitating multi-State mutual assistance compacts to share resources with respect to disasters and attacks.

Prohibition on the Use of Funds for Attendance of Enlisted Personnel at Senior Level and Intermediate Level Officer Professional Military Education Courses. The Administration objects to section 554, which would unnecessarily restrict the Air Force’s ability to educate its enlisted force by prohibiting DOD funds from being used for enlisted personnel at officer professional military education courses as defined in 10 U.S.C. §2151(b). These courses include service war colleges, service command and staff colleges, and the National Defense Intelligence College (now known as the National Intelligence University). Eliminating these unique developmental programs would harm the future growth and strategic development of the broader Air Force enterprise.

Expansion of Eligibility for Special Victims’ Counsel (SVC) Services. The Administration objects to section 545, which would expand eligibility for SVC services to additional crimes of violence. Currently, in three of the four military services, SVC representation is concentrated on victims of sexual assault as those cases have complex legal issues related to victim privacy and victim privileges. Service program managers currently have the authority to allow for exceptions when a particular case would benefit from SVC services.

Protective Orders against Individuals Subject to the Uniform Code of Military Justice. Although the Administration strongly supports providing necessary protection to victims, the Administration objects to section 544, which would authorize military judges to issue and enforce domestic protective orders, because it would strain the military judiciary’s limited resources and greatly expand the authority of military judges into an area that has been reserved to civil courts. Currently, service members, DOD dependents, and non-DOD affiliated civilian victims in the United States have access to State civil courts, which have robust and long-standing procedures to issue and enforce protective orders that meet the requirements for registration in Federal and civilian databases for background checks and firearms purchases. Military Victim-Witness personnel, Special Victims’ Counsel, Victim Advocates for both the Family Advocacy Program and the Sexual Harassment/Assault Response and Prevention Program, and law enforcement personnel are all trained on referring and assisting victims with obtaining these civilian court orders and ensuring that the orders are registered with military police for enforcement on installations. Additionally, for victims both in the United States and overseas, military commanders can issue protective orders in appropriate circumstances.



Mobile Protected Firepower (MPF). The Administration objects to the \$75 million decrement that would delay the MPF program by no less than one year. Infantry Brigade Combat Teams have an urgent need for a light weight, large caliber combat vehicle that can be airlifted, maneuver in the tight quarters of an urban environment and is immediately available to defeat fortified positions and lightly armored vehicles in current and future war plans. The decrement would also counter the Army's efforts to expedite MPF's acquisition, which is leveraging proven materiel solutions coupled with new technologies to save time and engender competition.

Prohibition on Per Diem Allowance Reductions Based on the Duration of Temporary Duty Assignment or Civilian Travel. The Administration objects to section 632, which would repeal the November 2014 flat rate per diem policy. This provision is unnecessary because the current flat rate per diem policy does not in any way require official travelers to pay "out-of-pocket" for authorized travel expenses. In response to previous concerns, DOD changed the Joint Travel Regulations to allow the services to exempt any travelers from the reduced flat rate per diem when it is insufficient to cover their meals and incidental expenses. Additionally, this language would add significantly to DOD's annual travel costs. Since the flat rate per diem policy was implemented, annual savings have totaled \$70 million for FY 2015, \$121 million for FY 2016, and \$123 million for FY 2017.

Prohibition on Participation of the People's Republic of China in Rim of the Pacific (RIMPAC) Naval Exercises. The Administration objects to section 1245 because China's participation in RIMPAC and other military-to-military events may be appropriate or inappropriate in any given year, depending on numerous other factors. Section 1245 would place restrictions on the Secretary of Defense's ability to manage a strategic relationship in the context of competition, limiting DOD's options on China and ability to act in the national security interest of the United States.

Unjustified Reductions to Military Personnel Accounts. The Administration objects to reducing the military pay accounts by \$1.9 billion based on prior-year under-execution in those accounts. If enacted, these reductions would be applied to the military services' military pay and allowances, incentive, and special pays programs and directly affect DOD's ability to fund our full-spectrum readiness recovery efforts, including the services' planned growth in forces, which would undermine the NDS. DOD is committed to reducing unobligated and unexpended balances in the military pay accounts, and already reduced the FY 2019 budget request for military personnel by over \$460 million for prior-year under-execution and realigned these funds to other Defense priorities.

Unrequested Re-prioritization of Military Construction Funding. The Administration objects to the bill's realignment of requested military construction funding from priority projects to other unrequested projects. Contrary to the Administration's fiscally responsible full funding policy, the bill proposes to incrementally fund numerous military construction projects, effectively passing the required \$648 million amount needed to fund the projects to future year budgets. Further, the bill diverts over \$720 million to unrequested projects. Many of these unrequested projects are not ready for construction due to the lack of planning and design and are not included in DOD's Future Years Defense Program. By incrementally funding military construction projects to fund unrequested projects, the bill would delay critical resources to complete high-priority projects initiated in FY 2019 and puts the burden on future budgets to make up the difference.

Bien Hoa Dioxin Cleanup. The Administration appreciates efforts by the Congress to enable the Administration to honor a commitment to Vietnam to contribute to dioxin cleanup at Bien Hoa Airbase in Vietnam. The Administration, though, objects to section 1061, which would authorize DOD to fund the U.S. Agency for International Development's (USAID) dioxin cleanup at Bien Hoa, creating the precedent of DOD funding international environmental remediation of contamination. This activity is more appropriately funded by USAID because USAID has the authority to implement international environmental remediation and recently completed dioxin remediation at Danang Airbase in Vietnam.

DOD Support for Non-Profit Entities. The Administration recognizes the value of U.S. charitable organizations and notes there are situations where closer cooperation with the United States military would be beneficial for achieving our shared objectives. The Administration objects, however, to section 1063 as written, which would provide preferential and unlimited access to DOD personnel, funds, and assets to implement non-governmental organizations' missions. We look forward to working with the Congress to shape this proposed legislation in a manner consistent with established best practices of humanitarian assistance, including appropriate State Department and USAID oversight.

Punitive Article on Domestic Violence Under the Uniform Code of Military Justice (UCMJ). The Administration objects to section 541, which would establish a new punitive article on domestic violence in the UCMJ. The criminal behavior addressed in this provision has been addressed by Executive Order 13825. The UCMJ addresses the full spectrum of misconduct that falls under the broad topic of domestic violence and provides the authority to prosecute such cases through a number of offenses, not limited to assault. Adding a separate offense for domestic violence would neither enhance the prosecution of these offenses nor better protect the victims. Currently, there is a well-defined body of case law regarding Article 128, UCMJ and a new offense would drive a requirement for clarification and interpretation through the appellate process.

Limitation on Availability of Funds for the Littoral Combat Ship (LCS). The Administration greatly appreciates and agrees with the intent of section 126, which limits the amounts authorized to be appropriated for LCS procurement in FY 2019. However, as currently written, section 126 would prohibit the procurement of the one LCS that was requested in the President's Budget. Therefore, the Administration recommends the Committee revise section 126 to limit FY 2019 funding to a total of 33 LCS.

Tactical Vehicle Reductions. The Administration objects to the proposed \$250 million reduction for procurement of Joint Light Tactical Vehicles and the \$100 million reduction for Armored Multi-Purpose Vehicles. These vehicles are key modernization priorities for DOD and are essential to rebuilding the readiness of the tactical vehicle fleet. Stable and predictable funding is also necessary to maintain a healthy and competitive industrial base throughout the supply chain. Both vehicles are consistent with the NDS, which requires warfighters to have advanced capabilities for mobility and protection, and with the Administration's commitment to a robust ground combat vehicle industrial base.

Security Clearance Reform. The Administration appreciates the Congress's interest in security clearance reform as expressed in sections 933 through 936. The coordination required in section

933 should occur not only between DOD and the Security Executive Agent, but also between DOD and the Suitability and Credentialing Executive Agent since the decisions will also encompass suitability and identity credentialing adjudications. The Administration objects to that portion of section 934(a) that requires shortened timelines for security clearances. Although the Administration shares the Congress's goal of greatly shortened timelines for security clearances, the Security Executive Agent should determine and promulgate the timelines for expedited security clearances for mission-critical positions based on empirical data gained from the on-going security vetting reform work being done within the executive branch. Additionally, as the Security Executive Agent under Executive Order 13467 and in accordance with 50 U.S.C. §3341(b), the Office of the Director of National Intelligence has oversight over the development and issuance of uniform policies and procedures concerning investigations and adjudications resulting in access to classified information, but does not process applications for security clearances itself. Rather, the individual agencies have responsibility for processing applications for security clearances for their personnel. This division of responsibilities, between oversight of the process and implementation, is expressed in both statute (50 U.S.C. §3341(b)) and Executive Order. The Administration also objects to section 935's requirement to establish a program to share information about individuals applying for positions of public trust with industry partners. While the Administration shares the goal of greater information-sharing, it is unclear whether this mandate could be implemented consistent with existing law or whether it would require legislative changes to the Privacy Act and other pertinent provisions of the U.S. Code. Furthermore, the provision assigns responsibility to the Security Executive Agent related to suitability information, which is under the purview of the Suitability and Credentialing Executive Agent, and as such does not align with the Security Executive Agents' responsibilities.

Information Systems Security Program. The Administration objects to the limitation in section 1629 on the National Security Agency's Information Systems Security Program funds. This limitation would have operational impacts. The Administration is committed to working with the Congress to alleviate its concerns regarding the provision of operations and maintenance funds for SHARKSEER, and has already begun work to provide the desired information.

Air Force Pass-Through Items in Defense-Wide Budget. The Administration is concerned about section 1002, which would require the President's Budget to request pass-through funds, as defined, in the Defense-wide budget rather than in the Air Force budget. Such a requirement requires further study of the national security-related implications of the shift. The Administration looks forward to working with the Committee on this matter.

Defense Industrial Base. The Administration supports provisions of the bill that would give DOD enhanced authorities to monitor and engage with the domestic defense industrial base. Sections 217 and 239 are positive steps towards greater engagement with domestic suppliers to the military, and the Administration looks forward to future cooperation with the Congress on integrating American manufacturers and innovators into the National Technology and Industrial Base.

Limitation on Foreign Access to Technology. The Administration strongly supports section 820, which would authorize the Under Secretary of Defense for Research and Engineering to use contract clauses to limit foreign access to sensitive technology. For decades, foreign nations have used a variety of tools to access best-in-class technologies developed by American companies and

American workers. The Administration supports initiatives to end these unfair practices and reinvigorate the National Technology and Industrial Base and the National Innovation Base.

Defense Manufacturing Communities. The Administration supports section 863, which would authorize the Secretary of Defense and the Secretary of Commerce to establish defense manufacturing consortia to strengthen the defense industrial base. The Administration strongly believes that American manufacturing is important for the security and prosperity of the American people.

Budgetary Effects. S. 2987 will affect direct spending and revenues; therefore, statutory Pay-As-You-Go (PAYGO) Act procedures apply. Because S. 2987 does not contain a valid reference to a congressional estimate, OMB would be required to score the bill if enacted, and to use its estimate on the five- and ten-year Statutory PAYGO scorecards. CBO estimates that this bill would increase impact mandatory spending and receipts by \$325 million over the 2019-2028 period. OMB's estimate is under development and may include a similarly significant score. Given that the PAYGO scorecard balances were reset to zero by the Balanced Budget Act of 2018, there is an increased risk of PAYGO sequestration if no offsets are found for these provisions.

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