



H.R. 6157: Department of Defense Appropriations Act, 2019 (Rep. Granger, R-TX)

CONTACT: [Jay Fields](#), 202-226-9718

FLOOR SCHEDULE:

H.R. 6157 is expected to be considered beginning on June 26, 2018, under a [structured rule](#).

Amendments made in order under the Rule will be summarized in additional Legislative Bulletins as they become available.

TOPLINE SUMMARY:

[H.R. 6157, the Department of Defense Appropriations Act, 2019](#), would provide appropriations for the Department of Defense.

The Committee Report for the bill can be found [here](#).

COST:

According to the Congressional Budget Office, the bill provides a total of \$ 606.5 billion in base discretionary spending and \$68 billion for cap-exempt Overseas Contingency Operations (OCO) funding.

The bill's spending level comports with the [302\(b\) subcommittee allocations](#) established by the House Committee on Appropriations. According to the House Appropriations Committee, the 302(b) subcommittee allocations in sum meet the 302(a) spending level stipulated for the Appropriations by the Budget Committee in its "[deeming resolution](#)" [as submitted and printed](#) in the Congressional Record of May 10, 2018. The Appropriations Committee's 302(a) allocation of \$1.244 trillion adheres to FY 2019 base discretionary spending caps established by the Bipartisan Budget Act of 2018.

The Budget Control Act (BCA) caps for FY 2019 are \$647 billion for defense and \$597 billion for non-defense.

The President's budget request includes \$647 billion for base defense and \$540 billion for base non-defense, in addition to \$69 billion in defense OCO.

CONSERVATIVE VIEWS:

Many conservatives may be pleased that the bill funds the Department of Defense in line with the increased Budget Control Act (BCA) cap for base discretionary spending as amended by Bipartisan

Budget Act of 2018 (BBA18). The bill would very nearly match President Trump’s funding request for the Department of Defense base discretionary defense spending. Combined with base defense discretionary defense spending in the FY 2019 Military Construction, Veterans Affairs Appropriations Act and FY 2019 Energy & Water Development Appropriations Act, as passed in the [minibus bill](#) passed by the House on June 7, 2018.

Other conservatives may be concerned that the funding in this bill is at a level that would exceed the BCA caps level as they were set prior to the BBA18.

- **Expand the Size and Scope of the Federal Government?** Yes, the bill would increase spending above current levels.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No, according to the Committee Report.

DETAILED SUMMARY AND ANALYSIS:

The bill would provide a net total of \$674.591 billion in Fiscal Year 2019 discretionary budget authority. Net total base discretionary budget authority that would be provided by the bill -- that is subject to the Budget Control Act (BCA) discretionary spending caps (as increased by the Bipartisan Budget Act of 2018 (BBA18)) – is \$606.512 billion.

In Millions of Dollars

	FY18 Enacted	FY19 President's Request	FY19 House Level
Net Total Base Discretionary	589,452	607,394	606,512

Net Total Base Discretionary Budget Authority is:

- \$882 million above President Trump’s budget request.
- \$17.060 billion above the enacted FY 2018 level.

The bill also includes \$68.079 billion in Overseas Contingency Operations (OCO/GWOT) funding that is exempt from the BCA spending caps. This is in line with the President’s Defense OCO request.

Total Department of Defense Appropriations	
<i>In Millions of Dollars</i>	
Base Appropriations	606,512
OCO Appropriations	68,079
Total FY 2019 DOD Appropriations	674,591

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

Net Total Discretionary in Millions of Dollars

FY18 Enacted	FY19 President's Request	FY19 House Level	New FY19 vs 18 Enacted	New FY19 vs President
133,367	140,689	139,308	+ 5,940	-1,381

Military Personnel would be appropriated \$139.308 billion, a level that is \$1.4 billion million below President Trump’s budget request and \$5.9 billion above the FY 2018 enacted level.

Military Personnel End Strength: The bill would provide funding to support end-strength levels of 16,400 above those authorized in FY 2018 and the same as President Trump’s budget request. A summary of end-strength personnel levels is below and a more detailed table can be found in the [committee report](#):

End Strength	FY18 Enacted	FY19 President's Request	FY19 House Level	New FY19 vs 18 Enacted	New FY19 vs President
Total, Active Forces	1,322,500	1,338,100	1,338,100	+ 15,600	0
Total, Selected Reserve	816,900	817,700	817,700	+ 800	0
Total, Military Personnel	2,139,400	2,155,800	2,155,800	+ 16,400	0

Military Pay Raise: The bill would provide funding to increase pay for all military personnel by 2.6 percent effective January 1, 2019.

Title II: Operation and Maintenance
Net Total Discretionary in Millions of Dollars

FY18 Enacted	FY19 President's Request	FY19 House Level	New FY19 vs 18 Enacted	New FY19 vs President
188,245	199,469	197,551	+9,306	-1,917

Operation and Maintenance (O&M) would be appropriated \$197.551 billion, a level that is \$1.917 billion below President Trump’s budget request and \$9.306 billion above the FY 2018 enacted level.

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

According to the Statement of Administration Policy, the “Administration strongly objects...to the \$3 billion reduction to the Services’ Operation and Maintenance (O&M) accounts.”

Title III: Procurement

Net Total Discretionary in Millions of Dollars

FY18 Enacted	FY19 President's Request	FY19 House Level	New FY19 vs 18 Enacted	New FY19 vs President
133,868	130,564	133,040	-828	+ 2,475

Procurement would be appropriated \$133.040 billion, a level that is \$2.5 billion above President Trump's budget request and \$ 828 million less than the FY 2018 enacted level.

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

Some conservatives may be concerned that the President requested [one littoral combat ship](#), at a cost of approximately \$1.3 billion, whereas the bill would fund the procurement of [three](#).

The bill would not meet the president's request for \$222 million in procurement funding for the C-135B. According to the [Statement of Administration Policy](#), "the Air Force requires the full funding level requested in the FY 2019 Budget to recapitalize its existing fleet of 1960s-era OC-135B U.S. Open Skies Treaty (OST) observation aircraft with modern, capable, and cost-effective replacements. Currently, the United States is not able to fully exercise its rights under OST because some airfields covered by OST are not accessible to the current OC-135B aircraft."

According to the [Statement of Administration policy](#), the Administration "objects, however, to the bill's nearly \$245 million in reductions to munitions across multiple procurement appropriations."

Title IV: Research, Development, Test and Evaluation

Net Total Discretionary in Millions of Dollars

FY18 Enacted	FY19 President's Request	FY19 House Level	New FY19 vs 18 Enacted	New FY19 vs President
88,308	91,057	91,218	+ 2,910	+161

Research, Development, Test and Evaluation (RDT&E) would be appropriated \$91.218 billion, a level that is \$161 million above President Trump's budget request and \$2.9 billion above the FY 2018 enacted level.

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

Title VI: Other Department of Defense Programs

Net Total Discretionary in Millions of Dollars

FY18 Enacted	FY19 President's Request	FY19 House Level	New FY19 vs 18 Enacted	New FY19 vs President
36,646	35,840	36,224	-422	+ 385

Other Defense Programs would be appropriated \$36.224 billion, a level that is \$385 million above President Trump's budget request and \$422 million below the FY 2018 enacted level.

Defense Health Program: The bill would provide \$34.047 billion for the Defense Health Program, a level that is \$318 million above President Trump’s budget request and \$381 million below the FY 2018 enacted level.

The primary mission of the Defense Health Program is to “provide for worldwide medical and dental services to active forces and other eligible beneficiaries.” Within this total, \$31.759 billion is for Operations and Maintenance, \$845 million is for Procurement, and \$1.4 billion is for Research, Development, Test, and Evaluation (RDT&E).

Conservatives may be concerned that as part of RDT&E, the Congressionally Directed Medical Research Program (CDMRP) is funded at \$752 million, while the president’s budget request is zero. According to [CRS](#), “Members of Congress are frequently lobbied to support adding funding to the annual defense appropriation for medical research on a wide variety of diseases and topics.” While medical research is a laudable activity, some conservatives may be concerned that many of the programs funded within the CDMRP are not for military-specific conditions and are duplicative of the type of [research done](#) at the National Institutes of Health (NIH). According to [Taxpayers for Common Sense](#), “These programs are clearly earmarks and therefore take money away from other necessary Defense Department functions.”

The bill provides [research funding](#) for:

- alcohol and substance abuse disorders research
- ALS research
- alzheimer research
- autism research
- bone marrow failure disease research
- breast cancer research
- cancer research
- Duchenne muscular dystrophy research
- gulf war illness research
- hearing restoration research
- kidney cancer research
- lung cancer research
- lupus research
- multiple sclerosis research
- orthopedic research
- ovarian cancer research
- prostate cancer research
- spinal cord research
- reconstructive transplant research
- tickborne disease research
- traumatic brain injury and psychological health research
- tuberous sclerosis complex research
- vision research
- Global HIV/AIDS prevention
- HIV/AIDS program increase
- Joint warfighter medical research
- Trauma clinical research program

Title VII: Related Agencies

Net Total Discretionary in Millions of Dollars

FY18 Enacted	FY19 President's Request	FY19 House Level	New FY19 vs 18 Enacted	New FY19 vs President
1,052	1,053	1,026	-25	-27

The related agencies funded by the bill would be appropriated \$1.03 billion, a level that is \$27 million below President Trump’s budget request and \$25 million below the FY 2018 enacted level.

Classified Programs: This title would provide for classified programs, including the Director of National Intelligence, the Intelligence Community Management staff, the Central Intelligence Agency (CIA), the Defense Intelligence Agency, the National Reconnaissance Office, the National Security Agency, the National Geospatial-Intelligence Agency, the intelligence services of the Departments of the Army, Navy, Air Force,

and the CIA Retirement and Disability fund. The majority of this information is published in the classified annex.

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

Net Total Discretionary in Millions of Dollars

FY18 Enacted	FY19 President's Request	FY19 House Level	New FY19 vs 18 Enacted	New FY19 vs President
66,166	68,079	68,079	+2,913	~0

OCO/GWOT would be appropriated \$68.1 billion, a level that is nearly the same as the President Trump's budget request and \$ 2.9 billion above the FY 2018 enacted level.

Personnel: The bill would provide a total of \$4.660 billion in OCO Military Personnel funding.

Operations and Maintenance (O&M): The bill would provide a total of \$48.305 billion in OCO military O&M funding.

Within this amount, the bill would provide \$1.4 billion for the Counter-ISIL Train and Equip Fund and \$5.199 billion for the Afghanistan Security Forces Fund.

Procurement: The bill would provide a total of \$12.745 billion in OCO military Procurement funding.

Research, Development, Test and Evaluation (RDT&E): The bill would provide a total of \$1.181 billion in OCO RDT&E funding.

NOTABLE POLICY PROVISIONS:

Guantanamo Detainees: The bill would prohibit funds to transfer or release any detainee that is not a U.S. citizen or service member into the United States detained at Guantanamo Bay. The bill would also prohibit the use of funds to construct, acquire, or modify any facility in the U.S. to house any such individuals, and prohibit the use of funds to close or transfer the jurisdiction of the Naval Station Guantanamo Bay.

The bill would also prohibit transferring a detainee to its country of origin, or another foreign country, except in accordance with the restrictions and requirements contained in [Section 1034 of the FY 2016 NDAA](#) (regarding prior notification) and [section 1034 of the FY 2017 NDAA](#) (excluding Libya, Somalia, Syria, and Yemen from places detainees may be transferred).

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

Support for Israel: The bill would direct that of appropriated fund, \$500 million be allocated to direct support for Israel, including \$70 million for Iron Dome, \$187 million for Short Range Ballistic Missile Defense, \$80 million for upper-tier missile defense, and \$163 million for the Arrow System Improvement Program.

Second Amendment Provisions: The bill would prohibit funding to implement the U.N. Arms Trade Treaty unless it is ratified by the Senate.

It would also prohibit the DOD from demilitarizing or disposing of M-1 Carbines, M-1 Garand rifles, M-14 rifles, .22 caliber rifles, .30 caliber rifles, or M-1911 pistols or to destroy small arms ammunition that is not otherwise prohibited for commercial sale by federal law.

Indian Contracts: The bill would make \$25 million of appropriated funding available for paying a 5% compensation markup to contractors that are Indian organizations, Indian-owned economic enterprises, native Hawaiians, or subcontract to entities owned and controlled by Indian-owned economic enterprises, or native Hawaiians.

JSTARS: The bill includes a provision that would prohibit the divestment of more than one legacy E-8C [Joint Surveillance Target Attack Radar System \(JSTARS\)](#) aircraft unless the Secretary of the Air Force certifies to the congressional defense committees that funds have been obligated pursuant to a contract award for continuation of the JSTARS recapitalization program. The President's budget request proposes to terminate the JSTARS recapitalization program.

The [Statement of Administration Policy](#) disapproves of this provision.

Cloud Computing Services: The bill would prohibit the DOD from using funds to migrate data to the Joint Enterprise Defense Infrastructure (JEDI) or Defense Enterprise Office Solutions cloud computing services until it submits to Congress a planned budget and strategy.

The [Statement of Administration Policy](#) takes issue with this provision.

Indian Housing: The bill would direct the Air Force to convey -- for free -- excess Air Force base housing units to Indian located in the States of Nevada, Idaho, North Dakota, South Dakota, Montana, Oregon, Minnesota, and Washington.

Contract Employees: The bill would prohibit the use of funds, with certain exceptions, to transition a DOD function performed by civilian employees to contractor performance unless certain requirements such as cost savings and health insurance benefits are met by the contractor.

Sexual Assault: The bill would allocate \$35 million of funds appropriated by the bill for continued implementation and expansion of the Sexual Assault Special Victims' Counsel Program.

Nuclear Armed Interceptors: The bill would prohibit use of funds to develop, use, or purchase nuclear armed interceptors of a missile defense system.

Ex Gratia Payments: The bill would authorize the Secretary to make appropriated amounts available to local military commanders appointed by the Secretary to provide at their discretion ex gratia payments to foreign civilians that are friendly to the United States, as determined by the local military commander, for damage, personal injury, or death that is incident to combat operations of the Armed Forces in a foreign country.

Azov Battalion: The bill would prohibit the use of funds to provide arms, training, or other assistance to the [Azov Battalion](#).

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

Intelligence: The bill would prohibit the use of funds for integration of foreign intelligence information unless the information has been lawfully collected and processed during the conduct of authorized foreign intelligence activities and that information pertaining to United States persons shall only be handled in

accordance with protections provided in the Fourth Amendment of the United States Constitution as implemented through Executive Order No. 12333.

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

BRAC: The bill would prohibit the use of funds to propose, plan, or execute a round of Base Realignment and Closure. The administration’s statement of administration policy for the FY 2018 NDAA expressed opposition to such a prohibition, which was also contained in that bill. The statement of administration policy for the FY 2018 NDAA as passed by the House did not contain such an expression of opposition.

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

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

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

Fisher House: The bill would provide \$5 million for Fisher Houses that provide free housing to the families of wounded warriors while they are receiving hospital treatment. The bill also allows the transfer of \$11 million from each of three Operation and Maintenance accounts for the Navy, Army, and the Air Force to their central funds established for Fisher Houses and Suites.

Some conservatives may be concerned that this is an appropriation of a specific amount of funding directed to an entity without using a statutory or administrative formula or competitive award process. Some conservatives may believe that this violates the Republican Conference’s moratorium on earmarks, if not technically, at least in spirit.

Protectionism: Some conservatives may be concerned that the bill included protectionist “buy American” provisions for: supercomputers, ball and roller bearings, anchors and chains, flags, carbon, alloy, and armor steel plate, and certain ship components for the [TAO Fleet Oiler program](#).

The bill requires that all funds made available by the bill to comply with the Buy American Act, and requires the Secretary of Defense to determine whether it should bar any individual from contracting with the Department who has been convicted of fraudulently using a “made in America” label. Further, it states that it is the sense of Congress that the military buy American made products so long as they are merely competitive from a quality, availability, and price standpoint.

The bill would prohibit the use of funds to buy energy products for the new Rhine Ordnance Barracks Army Medical Center unless domestically sourced fuels were, to the extent available, given preference, the source of furnished energy minimized use of fuels from the Russian Federation, and the design of such Medical Center will utilize a diversified energy supply from a mixed-fuel system as the source of furnished energy. Some conservatives may be concerned that this provision is intended to [prop up U.S. energy companies](#).

Expenses for Topless or Nude Entertainment: The bill would prohibit use of Government Travel Charge Cards for expenses for gaming or entertainment that includes topless or nude entertainers or participants.

Internet Pornography: The bill would bar the use of funds for computer networks that are not designed to block access to pornography.

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

Transfer of Lethal Military Weapons: The bill would prohibit the military from transferring to a non-governmental entity ammunition held by the Department of Defense that has a center-fire cartridge or armor penetrating capability, except pursuant to a contract to render the equipment ineffective or manufacture ammunition.

Bases in Iraq & Afghanistan: The bill would prohibit the use of funds to establish a permanent military installation or base in Iraq or Afghanistan, or to exercise control over an Iraqi oil resource.

Funding Afghan Human Rights Violators: The bill would allow funds available for the Afghanistan Security Forces Fund to be used to provide limited training, equipment, and other assistance that would otherwise be prohibited by [10 U.S.C. 362](#) (generally prohibiting funding foreign military units that have committed gross human rights violations) unless, among other things, the Secretary certifies that not doing so would pose a risk or undermine U.S. operations in Afghanistan and the Secretary has sought a commitment from the Government of Afghanistan to take corrective steps.

COMMITTEE ACTION:

The bill was marked up on [June 13, 2018](#), and reported by a vote of 48-4.

ADMINISTRATION POSITION:

According to the [Statement of Administration Policy](#), "The Administration appreciates investments that H.R. 6157, making appropriations for the Department of Defense for the fiscal year (FY) ending September 30, 2019, and for other purposes, makes in the Nation's military readiness and lethality.

The Administration welcomes the House's timely consideration of appropriations legislation, and looks forward to working with the Congress well before the end of the fiscal year to enact individual bills that provide sufficient funding to essential programs without further jeopardizing the Nation's fiscal state."

CONSTITUTIONAL AUTHORITY:

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

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