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

June 14, 2016
(House Rules)

STATEMENT OF ADMINISTRATION POLICY

H.R. 5293 – Department of Defense Appropriations Act, 2017
(Rep. Rogers, R-KY)

The Administration strongly opposes House passage of H.R. 5293, making appropriations for the Department of Defense for the fiscal year (FY) ending September 30, 2017, and for other purposes.

While the Administration appreciates the Committee's support for certain investments in our national defense, H.R. 5293 fails to provide our troops with the resources needed to keep our Nation safe. At a time when ISIL continues to threaten the homeland and our allies, the bill does not fully fund wartime operations such as INHERENT RESOLVE. Instead the bill would redirect $16 billion of Overseas Contingency Operations (OCO) funds toward base budget programs that the Department of Defense (DOD) did not request, shortchanging funding for ongoing wartime operations midway through the year. Not only is this approach dangerous but it is also wasteful. The bill would buy excess force structure without the money to sustain it, effectively creating a hollow force structure that would undermine DOD's efforts to restore readiness. Furthermore, the bill's funding approach attempts to unravel the dollar-for-dollar balance of defense and non-defense funding increases provided by the Bipartisan Budget Act of 2015 (BBA), threatening future steps needed to reverse over $100 billion of future sequestration cuts to DOD. By gambling with warfighting funds, the bill risks the safety of our men and women fighting to keep America safe, undercuts stable planning and efficient use of taxpayer dollars, dispirits troops and their families, baffles our allies, and emboldens our enemies.

In addition, H.R. 5293 would impose other unneeded costs, constraining DOD's ability to balance military capability, capacity, and readiness. The Administration's defense strategy depends on investing every dollar where it will have the greatest effect. The Administration's FY 2017 proposals would accomplish this by continuing and expanding critical reforms that divest unneeded force structure, balance growth in military compensation, modernize military health care, and reduce wasteful overhead. The bill fails to adopt many of these reforms, including through measures prohibiting the use of funds to propose or plan for a new Base Realignment and Closure (BRAC) round. The bill also continues unwarranted restrictions regarding detainees at Guantanamo Bay that threaten to interfere with the Executive Branch's ability to determine the appropriate disposition of detainees and its flexibility to determine when and where to prosecute Guantanamo detainees based on the facts and circumstances of each case and our national security interests.

In October 2015, the President worked with congressional leaders from both parties to secure the BBA, which partially reversed harmful sequestration cuts slated for FY 2017. By providing fully-paid-for equal dollar increases for defense and non-defense spending, the BBA allows for investments in FY 2017 that create jobs, support middle-class families, contribute to long-term growth, and safeguard national security. The Administration looks forward to working with the

Congress to enact appropriations that are consistent with that agreement, and fully support economic growth, opportunity, and our national security priorities. However, the bill is inconsistent with the BBA, and the Administration strongly objects to the inclusion of problematic ideological provisions that are beyond the scope of funding legislation. If the President were presented with H.R. 5293, the President's senior advisors would recommend that he veto the bill.

The Administration would like to take this opportunity to share additional views regarding the Committee's version of the bill.

Department of Defense (DOD)

Reduction and Misuse of OCO Funds. The Administration strongly objects to the Committee's proposal to substitute $16 billion of DOD's OCO request in the FY 2017 Budget with $16 billion of unsustainable base budget programs that do not reflect the Department's highest joint priorities. This approach creates a hollow force structure and risks the loss of funding for critical overseas contingency operations. This gimmick is inconsistent with the BBA, which provided equal increases for defense and non-defense spending as well as the certainty needed to prosecute the counter-ISIL campaign, protect readiness recovery, modernize the force for future conflicts, and keep faith with servicemembers and their families. Shortchanging wartime operations by $16 billion would deplete essential funding for ongoing operations by the middle of the year, introducing a dangerous level of uncertainty for our men and women in uniform carrying out missions in Afghanistan, Iraq, Syria, and elsewhere. Our troops need and deserve guaranteed, predictable support as they execute their missions year round, particularly in light of the dangers they face in executing the Nation's ongoing overseas contingency operations.

Guantanamo Detainee Restrictions. The Administration strongly objects to sections 8097, 8098, 8099, and 8130 of the bill, which would restrict the Executive Branch's ability to manage the detainee population at the Guantanamo Bay, Cuba detention facility. Section 8098 would prohibit the use of funds for the construction, acquisition, or modification of any facility to house Guantanamo detainees in the United States. Sections 8097 and 8099 would continue prohibitions and restrictions relating to transfers of detainees abroad. In addition, section 8130 would restrict the Department's ability to transfer U.S. Naval Station functions in support of national security. The President has repeatedly objected to the inclusion of these and similar provisions in prior legislation and has called upon the Congress to lift the restrictions. Operating the detention facility at Guantanamo weakens our national security by draining resources, damaging our relationships with key allies and partners, and emboldening violent extremists. These provisions are unwarranted and threaten to interfere with the Executive Branch's ability to determine the appropriate disposition of detainees and its flexibility to determine when and where to prosecute Guantanamo detainees based on the facts and circumstances of each case and our national security interests. Sections 8097 and 8099 would, moreover, violate constitutional separation-of-powers principles in certain circumstances.

Military End Strength. The Administration strongly objects to the unnecessary funding for end strength levels above the FY 2017 Budget request. The bill would force the Department to take additional risk in the training and readiness of the current force, as well as investment in and procurement of future capabilities. Adding unnecessary end strength in the manner proposed in the bill would increase military personnel and operation and maintenance support costs by approximately $30 billion (FY 2017 through FY 2021). This would also invite a significant, unacceptable risk of creating a future hollow force, in which force structure exists, but the resources to make it ready do not follow. The Administration urges support of the Department's plan, which reflects sound strategy and responsible choices among capacity, capabilities, and current and future readiness.

Military Compensation Reform. The Administration is disappointed that the Committee has rejected the pay raise proposal and most of the health care reform proposals included in the FY 2017 Budget request. The FY 2017 Budget request includes a set of commonsense reforms that would allow the Department to achieve a proper balance between DOD's obligation to provide competitive pay and benefits to servicemembers and its responsibility to provide troops the finest training and equipment possible. The Administration strongly encourages the Congress to support these reforms, which would save $500 million in FY 2017 and $11 billion through FY 2021.

Availability of Funds for Retirement or Inactivation of Ticonderoga-Class Cruisers or Dock Landing Ships. The Administration strongly objects to section 8124 of the bill, which would prohibit the Navy from executing its phased modernization approach for maintaining an effective cruiser and dock landing ship force structure while balancing scarce operating and maintenance funding. It also would significantly reduce planned savings and accelerate the retirement of all Ticonderoga-Class cruisers. The Navy's current requirement for active large surface combatants includes 11 Air Defense Commander ships, one assigned to each of the active carrier strike groups. This requirement is met by the modernization plan proposed in the FY 2017 Budget request. Furthermore, section 8124 would require an additional $3.2 billion across the Future Years Defense Program (FYDP) to fund manpower, maintenance, modernization, and operations when compared to the FY 2017 Budget request.

Restoration of Tenth Navy Carrier Air Wing. The Administration strongly objects to restoration of the Carrier Air Wing in Title IX of the bill. The tenth Carrier Air Wing is no longer needed, and results in ineffective use of the aircraft and pilot inventory in the Navy. The plan proposed in the FY 2017 Budget request optimizes Carrier Air Wing force structure to meet the Global Force Management Allocation Plan demand in a sustainable way. As an additional benefit, the plan also generates $926 million in FYDP savings. Furthermore, if forced to retain the tenth Carrier Air Wing, the bill's current military personnel funding levels are insufficient. The Navy would require an additional $48 million in FY 2017 for military personnel above the levels already in the bill, as well as an end strength increase of 1,167 above the Navy end strength in the bill.

Restoration of Third Littoral Combat Ship. The Administration strongly objects to the Committee's proposal to increase the purchase of Littoral Combat Ships (LCS) in FY 2017 from two to three. The FY 2017 Budget request reduced from 52 to 40 the total number of LCS and Frigates (FF) the Navy would purchase over the life of the program. A combined program of 40 LCS and FF would allow DOD to invest in advanced capabilities across the fleet and would provide sufficient capacity to meet the Department's warfighting needs and to exceed recent presence levels with a more modern and capable ship than legacy mine sweepers, frigates, and coastal patrol craft they would replace. By funding two LCS in FY 2017, the Budget request ensures that both shipyards are on equal footing and have robust production leading up to the competition to select the shipyard that would continue the program. This competitive environment ensures the best price for the taxpayer on the remaining ships, while also achieving savings by down-selecting to one shipyard. The bill prevents the use of resources for higher priorities to improve DOD's warfighting capability, such as undersea, other surface, and aviation investments.

Prohibition on Proposing, Planning, or Conducting an Additional Base Realignment and Closure (BRAC) Round. The Administration strongly objects to section 8121 of the bill and the proposed $3.5 million reduction to funds that would support a 2019 BRAC round. By forcing the Department to spread its resources more thinly, excess infrastructure is one of the principal drains on the Department's readiness, which the Committee recognizes as a major concern. In addition to addressing every previous congressional objection to BRAC authorization, the Department recently conducted a DOD-wide parametric capacity analysis, which demonstrates that the Department has 22 percent excess capacity. In addition, the Administration's BRAC legislative proposal includes several changes that respond to congressional concerns regarding cost. Specifically, the revised BRAC legislation requires the Secretary to certify that BRAC would have the primary objective of eliminating excess capacity and reducing costs, emphasizes recommendations that yield net savings within five years (subject to military value), and limits recommendations that take longer than 20 years to pay back. The Administration strongly urges the Congress to provide BRAC authorization as requested so that DOD can make better use of scarce resources to maintain readiness.

Asia-Pacific Rebalance Infrastructure. The Administration strongly objects to the exclusion of a general provision requested in the FY 2017 Budget that would allow for $86.7 million of the amounts appropriated for the Operation and Maintenance, Defense-Wide account to be available for the Secretary of Defense to make grants, conclude cooperative agreements, and supplement other Federal funds. This critical provision addresses the need to provide assistance for civilian water and wastewater improvements to support the military build-up on Guam, as well as critical existing and enduring military installations and missions on Guam. A key aspect of the Asia-Pacific rebalance is to create a more operationally resilient Marine Corps presence in the Pacific and invest in Guam as a joint strategic hub. This funding supports the ability and flexibility of the President to execute our foreign and defense policies in coordination with our ally, Japan. In addition, it calls into question among regional states our commitment to implement the realignment plan and our ability to execute our defense strategy.

Prohibition of Funds to Enforce Section 526 of the Energy Independence and Security Act of 2007. The Administration strongly objects to section 8132 of the bill, which would prohibit DOD from using FY 2017 funds to enforce section 526 of the Energy Independence and Security Act of 2007. Section 526 provides an environmentally sound framework for the development of future alternative fuels.

Evolved Expendable Launch Vehicle. The Administration objects to the reductions to both the Evolved Expendable Launch Vehicle and the Evolved Expendable Launch Vehicle Infrastructure requested in the FY 2017 Budget. The Evolved Expendable Launch Vehicle reduction would eliminate three launch service procurements, instead of the two procurements the Committee intended. Further, the Evolved Expendable Launch Vehicle Infrastructure reduction exceeds the amount ascribed to these two procurements, and would cause the Government to default on the current contract and the block buy, unnecessarily introducing costs and schedule risk for national security space payloads.

Missile Defense Programs. The Administration objects to the reduction of $324 million from the FY 2017 Budget request for U.S. ballistic missile defense programs, including $49 million to homeland defense programs, $91 million to U.S. regional missile defense programs, $44 million to missile defense testing efforts, and $140 million to missile defense advanced technology programs. These programs are required to improve the reliability of missile defense system and ensure the United States stays ahead of the future ballistic missile threat. Furthermore, the Administration opposes the addition of $455 million above the FY 2017 Budget request for Israeli missile defense procurement and cooperative development programs.

Coalition Support Fund (CSF). The Administration objects to section 9020 of the bill, which would rescind funds available for CSF by $300 million. Reducing CSF would limit DOD's ability to reimburse key allies in the fight against ISIL and other extremist groups in the region. The rescission is especially harmful because it would reduce funds available for programs that are already underway and would limit DOD's flexibility to continue to program these funds for critical needs. The Administration urges the Congress to retain the authority to make certain funds available to support stability activities in the Federally Administered Tribal Areas as provided in section 1212(f) of the FY 2016 National Defense Authorization Act.

Counterterrorism Partnerships Fund (CTPF). The Administration objects to the reduction of $250 million from the FY 2017 Budget request for CTPF because it would restrict the resources required to empower and enable partners in responding to shared terrorist threats around the world. The Administration also objects to the $200 million rescission in FY 2016 CTPF resources in the bill. Both of these reductions would preclude DOD from continuing important security assistance programs begun in FY 2016. The Administration strongly encourages the Congress to provide the $1 billion originally requested to continue support for CTPF activities in FY 2017 and restore the rescinded FY 2016 funding.

Elimination of Joint Urgent Operational Needs Fund (JUONF) Funding. The Administration objects to the elimination of the $99 million JUONF base funding requested in the FY 2017 Budget. This funding is vital to the Department's ability to quickly respond to urgent operational needs. Eliminating this funding may increase life-threatening risks to servicemembers and contribute to critical mission failures.

Rapid Prototyping, Experimentation and Demonstration. The Administration objects to the reduction of $42 million from the FY 2017 Budget request for the Navy's research and development funding to support the Rapid Prototyping, Experimentation and Demonstration (RPED) initiative. RPED is an essential element in the Navy's strategy to employ successful innovation technologies to help pace the dynamic threat of our adversaries, more quickly address urgent capability needs, accelerate our speed of innovation, and rapidly develop and deliver advanced warfighting capability to naval forces. This reduction would render the initiative ineffective in promoting rapid acquisition, hindering the Navy's ability to determine the technical feasibility and operational utility of advanced technologies before committing billions of dollars toward development. This reduction hinders the Department-wide goal of employing new techniques to make the acquisition process more agile and efficient.

Innovation and Access to Non-Traditional Suppliers. The Administration objects to the reduction of $30 million for programs that seek to broaden DOD's access to innovative companies and technologies. Specifically, the Administration is concerned about the elimination of the investment funding associated with the Defense Innovation Unit Experimental (DIUx), as well as the reduction in funding for In-Q-Tel's efforts to explore innovative technologies that enable the efficient incorporation into weapons systems and operations capabilities. These investments would enable the development of leading-edge, primarily asymmetric capabilities and help spur development of new ways of warfighting to counter advanced adversaries.

Reduction of Funds for Countering Weapons of Mass Destruction (CWMD) Situational Awareness System. The Administration objects to the reduction of $27 million from the FY 2017 Budget request for the development of a CWMD situational awareness information system, known as "Constellation." The Department is developing and fielding this system in response to requirements articulated by all Combatant Commands and validated by the Joint Requirements Oversight Council. This capability is critical to anticipating WMD threats from both nation-state and non-state actors and sharing information between DOD and its U.S. interagency and international partners. Funds were appropriated in FY 2014-2016 specifically to develop and field the Constellation system, which would be deployed in July 2016 as an initial prototype. A reduction of $27 million would effectively terminate this initiative and prevent DOD from developing a high priority capability needed to counter WMD threats.

Navy High Energy Lasers. The Administration objects to the reduction of $20 million from the FY 2017 Budget request for the Power Projection Advanced Technology program, which would delay by one year fielding of the High Energy Laser (HEL) program laser and demonstration of its technology maturation. The HEL technology is a means of countering low-cost unmanned aerial vehicles and small surface vessels.

Limitation on Intelligence Community General Transfer Authority (GTA). The Administration objects to section 8096 of the bill, which reduces the Intelligence Community's (IC's) FY 2016 enacted GTA cap from $1.5 billion to $1.0 billion for FY 2017. This proposed cap would place severe limits on the IC's flexibility to manage resources and could compromise the ability to meet critical intelligence priorities at a time of shifting and dynamic worldwide threats, especially in urgent circumstances. This flexibility is especially important given the broad applicability of the GTA constraints to the appropriation accounts that fund IC.

Availability of Funds for Improvement of IC Financial Management. The Administration objects to section 8066 of the bill, which places limits on the ability of IC to review and take action on financial management improvement measures. The Office of the Director of National Intelligence and DOD are engaged in a comprehensive review of financial management practices that may result in recommendations for changes to financial management or appropriations structures.

Constitutional Concerns

Several other provisions in the bill raise constitutional concerns. For instance, sections 8055, 8071, 8121, and provisions under the headings "Operations and Maintenance—Defense-wide" and "Joint Improvised Threat Defeat Fund" may interfere with the President's authority as Commander in Chief.

The Administration looks forward to working with the Congress as the FY 2017 appropriations process moves forward.

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