

# **William M. “Mac” Thornberry National Defense Authorization Act for Fiscal Year 2021**

This year marks the 60th consecutive year Congress has fulfilled its constitutional duty to “provide for the Common Defense” by passing the National Defense Authorization Act (NDAA). This annual legislation, which this year is named in honor of the retiring Ranking Member of the House Armed Services Committee, the *William M. “Mac” Thornberry National Defense Authorization Act for Fiscal Year 2021*, provides for funding and authorities for the United States military, and ensures our troops have the training, equipment, and resources they need to defend our nation with pride and valor.

Built on broad consensus, this year’s bipartisan NDAA conference agreement focuses on the following priorities: implementing the National Defense Strategy to confront current and future security challenges from China, Russia, transnational terrorism, and beyond; regaining a wide margin of military superiority; building a National Security Innovation Base to maintain our technological advantage; securing our supply chain; prioritizing accountability and streamlining operations at the Department of Defense (DOD); and — most importantly — taking care of our service members and their families.

## **Funding Summary and Table**

The Fiscal Year (FY) 2021 NDAA Conference Agreement supports a total of \$740.5 billion in funding for national defense, consistent with the Bipartisan Budget Act of 2019. Within this topline, the legislation authorizes a total amount of \$731.6 billion of national defense funding under the Armed Services Committees’ jurisdiction, including a base budget of \$635.5 billion, \$69 billion for Overseas Contingency Operations, and \$26.6 billion for national security programs within the Department of Energy.

<b>FY20 Defense Funding Levels (in billions)</b>	
DOD Discretionary Base	\$635.5
DOE Discretionary Base	\$26.6
Defense-Related Activities in NDAA Jurisdiction	\$0.5
Overseas Contingency Operations	\$69.0
NDAA Authorized Topline with OCO	\$731.6
Defense-Related Activities Outside NDAA Jurisdiction	\$8.9
<b>National Defense Topline with OCO</b>	<b>\$740.5</b>
*Numbers may not add due to rounding	

The bill allows for up to \$4 billion in general transfer authority and \$2 billion in special transfer authority, consistent with the Bipartisan Budget Act of 2019.

Mandatory Spending: The bill also includes \$11.9 billion in authorizations for Defense mandatory spending, as requested in the President’s budget request.

## **Supporting Our Troops, Their Families, and the Civilian Workforce**

The FY21 NDAA Conference Report prioritizes the nation’s 2.15 million uniformed service members who, along with their families and the civilian workforce, serve as the backbone of America’s national security. It supports the requested 3 percent pay raise for the military,

increases hazardous duty pay by 10 percent, and reauthorizes more than 30 other types of bonuses and special pay. The Conference Report also adds pay incentives to recruit and retain critically needed military personnel, including pilots, submariners, health care professionals, and those with other critical skills.

To ensure our military can meet the demands placed on it, the Conference Report authorizes the following active-duty end strength levels:

- Army - 485,900
- Navy - 347,800
- Marine Corps - 181,200
- Air Force - 333,475

(The Air Force end strength authorization includes the Space Force for FY21; the Conference Report directs the Department of the Air Force to submit a formal request and justification for Space Force end strength as part of the President's budget request for FY22.)

### COVID-19

This year's NDAA has been crafted in the midst of an unprecedented national pandemic. Over the past nine months, the U.S. military has assisted in numerous ways to support communities across the nation, while at the same time facing the dual challenges of protecting the health of service members and maintaining military preparedness. The Conference Report responds to these challenges by ensuring service members have adequate diagnostic equipment, testing capabilities, and personal protective equipment, along with resources and authorities to support overall readiness.

The FY21 NDAA Conference Agreement prioritizes the health of our service members by:

- Requiring DOD to maintain a 30-day supply of personal protective equipment sufficient for every Active and Reserve service member, and ensuring that DOD's medical laboratories have the technology needed to facilitate rapid research and development of vaccines, diagnostics, and therapeutics in case of future pandemic;
- Directing the Secretary of Defense to develop a strategy for pandemic preparedness and response;
- Creating a registry of TRICARE beneficiaries diagnosed with COVID;
- Requiring the Comptroller General to conduct a study on mental health services provided to members of the Armed Forces during the pandemic;
- Establishing a coronavirus disease panel to review the military health system's response to COVID-19, evaluate its effects, and report to Congress by June 1, 2021;
- Preventing Reserve service members from having their retirement eligibility penalized because drill weekends and annual training were cancelled due to the pandemic;
- Providing health benefits authorized under sec. 1145 of title 10 for National Guard members separating from Active service, if their service was in support of federal response to COVID-19;
- Providing for at least 14 days of quarantine housing for members of the Reserves ordered to active service in response to the COVID-19 national emergency;
- Requiring the Secretary of Defense to conduct a study on the financial hardships experienced by members of the Armed Forces because of the COVID-19 pandemic; and
- Expanding the ability for VA health professionals to provide health care via telemedicine.

The bill also expands the annual leave carryover for most federal employees who have unused leave as a result of the pandemic.

## Family Readiness

The FY21 NDAA Conference Report recognizes that family readiness is critical to overall force readiness, morale, and health. To provide robust support for our military families and improve their well-being and resiliency, the agreement focuses on the following priorities:

### *Spouse Employment*

The FY21 NDAA continues efforts to help military spouses find and keep good jobs, including expanding the My Career Advancement Account Program, improving the Military Spouse Employment Partnership Program, and allowing for the reimbursement of costs incurred to maintain professional licenses and credentials when permanently changing station, including an additional \$2.5 million for re-licensing.

### *Child Care and Education*

The FY21 NDAA continues efforts to provide military families with flexible, affordable child care and access to quality education. The agreement authorizes a family discount for families with two or more children attending a Child Development Center and improves the availability of child care on military installations. In addition, the Conference Report authorizes additional funding to maintain the student-teacher ratios at DOD schools and increases funding for Impact Aid by a total of \$70 million to support school districts educating military children, which includes \$20 million for Impact Aid for children with severe disabilities.

The Conference Agreement includes numerous other reforms to support military families with children with special needs, including standardizing and improving the Exceptional Family Member Program and establishing requirements for the Office of Special Needs to develop and update individualized service plans.

The Conference Report also improves DOD efforts to track and respond to incidents of child abuse involving dependents of service members.

### *Housing*

The FY 2020 NDAA initiated the most comprehensive overhaul of the privatized military housing system since its creation over two decades ago. To follow up on its implementation and ensure our service members and their families are living in high-quality, healthy, and safe housing during their service, the FY21 NDAA Conference Report contains numerous oversight and assessment measures, including:

- Striking section 2830 of title 10, United States Code, which allows the Secretaries of the military departments to maintain substandard military family housing;
- Requiring DOD to implement the recommendations of the DOD Inspector General Report “Evaluation of the DOD’s Management of Health and Safety Hazards in Government-Owned and Government-Controlled Military Family Housing” within 90 days of enactment;
- Requiring the DOD Inspector General to audit the medical conditions of service members and their families who have resided in unsafe or unhealthy military housing;
- Improving the identification and remediation of severe environmental hazards;
- Providing support for families who have been displaced from their privatized military housing and establishing best practices for mold mitigation in emergency situations;
- Holding housing companies accountable, including by requiring the inclusion of assessment of performance metrics in the annual publication on use of incentive fees for privatized military housing projects;

- Applying the uniform code of basic housing standards for safety, comfort, and habitability for privatized military housing to all government-owned and government-controlled military family housing; and
- Providing authorities to ensure timely hiring of military housing office officials responsible for supervising privatized military housing projects.

#### *Other Support for Service Members and Military Families*

- Requires the Secretary of Defense to develop a policy to ensure that a service member's career is not unduly affected by pregnancy, childbirth, or a medical condition arising from pregnancy or childbirth;
- Honors the enormous sacrifice made by families who have lost a loved one in service to our nation by improving assistance to Gold Star families and making the National Parks and Federal Recreational Lands Pass available at no cost to members of Gold Star families;
- Facilitates travel for families to visit seriously injured service members hospitalized overseas;
- Maintains the enacted FY20 funding levels for *Stars and Stripes*, while requiring a report detailing a business case analysis of continued operation of the publication; and
- Improves voting access and support for overseas service members and dependents.

#### Health Care

The FY21 NDAA Conference Report ensures DOD provides quality health care to service members, their families, and retirees, and improves medical readiness – all while maximizing value. Specifically, the NDAA takes steps to improve combat casualty care, encourages the use of telehealth and virtual health technologies, and prohibits the reduction of military medical end strength authorizations for 180 days following enactment. The agreement mandates a comprehensive clinical quality management program throughout the military health system. Additionally, the NDAA expands benefits available under TRICARE's Extended Care Health Option (ECHO) program, and it authorizes the sale of hearing aids for dependents of certain reserve component members.

DOD's most recent Annual Suicide Report showed a concerning rate of military suicide; accordingly, the conference report includes reforms to address mental health and prioritize suicide prevention. This includes making permanent a suicide prevention program for reserve components and requiring additional reporting to evaluate military suicides and suicide prevention efforts.

#### Sexual Assault/Military Justice

Building on provisions included in previous NDAs to combat sexual assault in the military, the FY21 NDAA Conference Agreement includes numerous reforms to improve the reporting of sexual assault and harassment, protect the rights of victims, and provide for more effective responses for sex-related offenses. This includes:

- Requiring the Secretary of Defense to establish a policy that would allow victims of sexual assault to report the assault without fear of being disciplined for minor misconduct that was collateral to the sexual assault;
- Requiring DOD to develop a policy at the military service academies and military educational institutions to minimize the association between an alleged victim and the accused while the parties complete their course of study;

- Requiring DOD to survey sexual assault response coordinators and sexual assault prevention and response victim advocates on their experiences in assisting victims of sexual assault and report on the results;
- Establishing statutory qualifications for military appellate court judges; and
- Establishing a statutory evidentiary standard for consideration of appeals of court-martial convictions based on sufficiency of the evidence.

#### Recruiting and Retaining a Quality Civilian Workforce

The DOD's civilian workforce is a critical component of the overall strength, readiness, and capability of our military force. Last year's NDAA included critical reforms to shift DOD's approach to its civilian workforce, particularly with respect to recruitment and retention, and this year's NDAA Conference Report builds on those reforms to strengthen the national security workforce. For instance, the FY21 NDAA Conference Report authorizes higher wages for the most in-demand positions in science, technology, acquisition, and management.

The Conference Report also extends death and dismemberment benefits authorized to public safety officers to National Nuclear Security Agency nuclear materials couriers, emergency response team members, and others deployed by the Secretary of Energy to respond to a weapon of mass destruction or a radiological release.

In addition, the Conference Report expands paid parental leave to those federal agencies inadvertently left out in the FY20 NDAA.

### **Achieving Irreversible Momentum in Implementation of the National Defense Strategy**

Two years ago, the National Defense Strategy (NDS) outlined our nation's preeminent challenge: strategic competition with authoritarian adversaries that stand firmly against our American values of freedom, democracy, and peace. These strategic competitors — namely China and Russia — have increased military and economic aggression, worked to develop advanced technologies, expanded their influence around the world, and worked to undermine our own influence.

It is critical that we have the personnel, equipment, training and organization needed to deter and, if necessary, defeat our potential enemies. Following the investments and authorities provided in the FY19 and FY20 NDAs, the FY21 NDAA Conference Agreement continues to accelerate implementation of NDS by aligning resources with its objectives, emphasizing a combat-credible force posture, and solidifying alliances and partnerships.

#### Pacific Deterrence Initiative

The conferees recognize the enormous threats the United States faces in the Indo-Pacific region, particularly west of the International Date Line. To meet these challenges, implement the NDS, adequately resource our forces, and maintain a credible balance of power in the region, the FY21 NDAA Conference Report establishes the Pacific Deterrence Initiative (PDI). The PDI will send a strong signal to China and any potential adversaries, as well as to our allies and partners, that America is deeply committed to defending our interests in the region.

The PDI will focus on the following activities:

1. Enhancing the United States' deterrence and defense posture;
2. Increasing readiness and capability in the Indo-Pacific region; and
3. Deepening cooperation with allies and partners.

In total, the provision authorizes \$2.2 billion to be invested for these purposes, the bulk of which was identified through budget reviews of existing programs and captured in a new budget display created by the Armed Services Committees. Within this total, the provision authorizes more than \$135 million above the President's budget request for the Army's Multi-Domain Task Force deployment to the region, the Mission Partner Environment, Joint Task Force Indo-Pacific, Counter-Terrorism Information Center, Joint Interagency Task Force-West, and military construction planning and design. The newly established PDI will enhance budgetary transparency and oversight — ensuring that available budgetary data is organized according to regional missions and combatant command priorities to best assess NDS implementation.

### China

In addition to establishing the PDI, the Conference Report also includes numerous provisions to deter China's malign behavior, position the United States for strategic competition, and protect our assets from infiltration, including:

- Protecting federal investments in defense-sensitive intellectual property, technology, and data from acquisition by China, including by:
  - Creating mechanisms to restrict employees or former employees of the defense industrial base from working directly for companies wholly owned by, or under the direction of, the Government of the People's Republic of China (PRC),
  - Requiring universities to share information on defense-funded research,
  - Limiting funding for universities with Confucius Institutes, and
  - Requiring the disclosure of external funding for federal grant recipients;
- Directing the President to create a whole-of-government strategy to impose costs on the PRC to deter industrial espionage and the large-scale theft of personal information by the PRC;
- Establishing a continuous assessment activity for industrial bases of foreign adversaries, beginning with China;
- Requiring the public reporting in the Federal Register of Chinese military companies operating in the United States;
- Prohibiting the commercial exports of covered defense articles and services and covered munitions items to the Hong Kong Police;
- Including efforts to pursue China's graduation from World Bank assistance; and
- Tasking the Department of Defense and a Federally Funded Research and Development Center with comprehensive comparative studies of the notoriously opaque Chinese and Russian defense budgets.

### Russia

As with China, long-term strategic competition with Russia poses a significant threat to the security of the United States. To deter and resist Russian aggression, the FY21 NDAA Conference Agreement:

- Extends restrictions on funds for military-to-military cooperation with Russia and any activities that would recognize Russian sovereignty over Crimea;
- Authorizes \$250 million for the Ukraine Security Assistance Initiative, including \$75 million for lethal assistance, and extends the authority to support Ukraine in deterring Russia;
- Requires a comprehensive assessment of Ukraine's military capabilities and capacity to defend its sovereignty against Russian aggression and a resource plan for security assistance to aid Ukraine in meeting its defense requirements;
- Establishes mandatory sanctions on Turkey for its acquisition of the Russian S-400 air missile defense system as required by the Countering America's Adversaries Through Sanctions Act (CAATSA);

- Extends the authority for training of Eastern European national security forces in multilateral exercises;
- Requires a report on Russian support to foreign racially and ethnically motivated violent extremist groups and networks inside and outside Russia and an assessment of the threats this poses to U.S. counterterrorism and national security interests;
- Authorizes full funding for the European Deterrence Initiative;
- Expands sanctions related to the construction of Russia's Nord Stream 2 pipeline projects;
- Requires an assessment of the value, cost, and feasibility of increased U.S. military presence in the Eastern Mediterranean and Black Sea regions;
- Requires the establishment of a coordinated and integrated program to train DOD personnel regarding the threat of foreign malign influence campaigns targeting them on social media; and
- Authorizes the Secretary of the Treasury to take special measures to combat Russian money laundering.

### Allies/Partners

The National Defense Strategy stresses the importance of developing and strengthening mutually beneficial alliances and partnerships to ensure the balance of power remains in our favor. With this in mind, the FY21 NDAA includes numerous provisions to support America's existing allies and partners, build new relationships, and ensure these allies and partners are well-positioned to counter existing and emergent threats. The Conference Report:

- Prohibits reducing the number of service members deployed to South Korea below 28,500 unless numerous certifications and requirements are met;
- Expresses support for the continued presence of U.S. forces in Germany and limits DOD's ability to reduce the number active-duty service members in Germany below 34,500 until an assessment on its impact has been completed;
- Provides new authorities for training and assistance to foreign partners to build capabilities for cyberspace security, defensive cyberspace operations, and air domain awareness operations, and expands eligibility for training at the Inter-European Air Forces Academy;
- Expands the authority for special operations forces to provide support to partners for irregular warfare;
- Requires additional reporting on outstanding reimbursements by partner nations under Acquisition and Cross-Servicing Agreements and on burden-sharing contributions by designated countries;
- Authorizes the participation of DOD personnel in the European Center of Excellence for Counter Hybrid Threats in Helsinki, Finland;
- Extends support to Israel by including the United States-Israel Security Assistance Act;
- Reaffirms commitments to and support for various allies and partners, including Taiwan, the Baltic states, India, Vietnam, and Japan;
- Requires issuance of Department-wide policies and programs, including the hiring and training of sufficient qualified personnel, to advance the implementation of the Women, Peace, and Security Act of 2017; and
- Provides measures that would strengthen, modernize, and improve oversight by the Secretary of the Treasury of its financial intelligence, anti-money laundering, and countering financing of terrorism programs and establish reporting requirements on beneficial ownership information.

## **Equipping our Military for the Wars of Today and Tomorrow**

The FY21 NDAA Conference Report ensures the United States protects our military advantage in all domains — in the skies and space, on the seas and on land, and in cyberspace.

### Superiority in the Air

- Establishes a minimum number of combat coded aircraft for most major mission areas in the U.S. Air Force and prohibits the divestment of combat-coded aircraft until the minima are reached to ensure that the Air Force meets NDS and combatant command requirements. This includes limitations on bomber, tanker, and airlift aircraft and maintains the fighter aircraft requirement;
- Requires the Secretary of Defense to submit an annual aviation procurement plan across all services and complete a study on the use of cost per effect vice flying hours as a key performance parameter for the Joint Capabilities Integration and Development System requirements process;
- Requires the Air Force to have no fewer than 386 available operational squadrons or equivalent organizational units and 3,850 combat-coded aircraft;
- Requires the Secretary of the Air Force to provide a comprehensive strategy for Air Force airborne intelligence, surveillance, and reconnaissance (ISR) assets to ensure alignment between requirements and future Air Force budget submissions;
- Provides dedicated Air Superiority aircraft in the European Command theater and limits divestment of F-15C aircraft in the theater;
- Increases funding for critical capabilities that will help the United States maintain air superiority in contested environments, including Systems of Systems Technology Integration Tool Chain for Heterogeneous Electronic Systems (STITCHES) and advanced air-to-air weapons;
- Authorizes \$9.1 billion to procure 93 Joint Strike Fighter aircraft, an additional 14 aircraft above the President's budget request, equipping our forces with the most advanced and capable fifth-generation aircraft;
  - Includes authorization to use the six F-35 aircraft that had been accepted by Turkey before they were removed from the F-35 program;
- Requires a ground moving target indicator (GMTI) radar capability prior to the retirement of the JSTARs aircraft;
- Increases MQ-9 procurement by a total of \$108 million and adds 16 aircraft to prevent premature termination;
- Supports Air Force pilot training to protect pilots and reduce the pilot shortage;
- Authorizes an additional seven C-130Js to further modernize our tactical airlift fleet;
- Requires the Secretary of the Air Force to provide higher fidelity program information including cost and schedule for the Advanced Battle Management System;
- Requires the Department to produce Joint All Domain Command and Control (JADC2) requirements and the Chief of Staff of the Air Force to certify that the current JADC2 efforts meet the requirements;
- Supports acceleration of the prototype and fielding of Low-Cost Attributable Aircraft Technology (LCAAT) systems and the SKYBORG program by adding \$50 million to augment our current air forces with autonomous unmanned aircraft that would pair with F-35 and other tactical aircraft to ensure air superiority for our warfighters;
- Ensures the Air Force and the Army are coordinated in their efforts to defend air bases and prepositioned sites outside the continental United States from current and emerging missile threat; and
- Prohibits the procurement of Armed Overwatch aircraft in FY21 and requires additional analysis on the requirements of special operations forces and potential materiel solutions to meet such requirements.



### Superiority on the Seas

- Authorizes procurement of nine total battle force ships, including one additional *Virginia*-class submarine, one additional Expeditionary Fast Transport, and one fewer amphibious ship (LPD-31 previously authorized by Congress), as compared with the President's budget request;
- Provides multi-ship contract authority for up to two *Columbia*-class submarines, three *San Antonio*-class amphibious ships, and one *America*-class amphibious ship;
- Authorizes \$500 million for the *America*-class amphibious assault ship designated LHA-9;
- Requires certain disclosures related to foreign government involvement in shipbuilding major defense acquisition program offers;
- Requires the Navy to qualify the main propulsion and electrical generation systems for certain unmanned surface vessels prior to vessel procurement;
- Requires the Navy to complete a land-based test program for *Constellation*-class frigates prior to the lead ship being available for tasking by operational military commanders;
- Establishes a Department of the Navy and Department of Labor joint shipbuilding industrial base working group;
- Enhances the efficiency of amphibious ship construction, saving almost \$1 billion over the next five years;
- Authorizes certain aspects of the Maritime Administration and Coast Guard;
- Requires the Navy to create a fighter aircraft force structure acquisition strategy and report on aircraft carrier air wing composition and carrier-based strike fighter squadrons to better prepare for potential conflicts envisioned by the National Defense Strategy; and
- Authorizes an additional eight P-8 aircraft to continue modernizing our anti-submarine capability.

### Superiority in Space

- Makes appropriate adjustments and technical amendments to ensure the newly created U.S. Space Force is optimally organized to protect U.S. interests in space while minimizing cost and bureaucracy;
- Does not allow the establishment of a Space Force reserve component, but directs the Secretary of Defense to provide recommendations on the preferred organizational structure and integration of the reserve components;
- Directs the Chairman of the Joint Chiefs of Staff and service chiefs to report on the space-related missions and expertise that should remain within each service and whether they require organized or liaised Space Force personnel;
- Makes technical and conforming amendments needed to continue implementation of the Space Force;
- Authorizes the voluntary transfer of personnel to the Space Force;
- Prohibits the transfer of military installations to the Space Force prior to analysis by the Secretary of the Air Force being presented to the congressional defense committees.
- Directs the Space Force to continue working with research institutions to establish critical research infrastructure and develop the future workforce;
- Encourages the establishment of a space training and readiness command that utilizes existing infrastructure to minimize cost and bureaucracy;
- Continues development of the space technology base, including launch vehicles and responsive launch, and recognizes the maturity of reusable space launch capability,

- Authorizes increased funding for space domain awareness, launch development, and space-based surveillance capability;
- Accelerates the acquisition of space systems;
- Directs the Secretary of the Air Force to provide a report on the selection process and criteria used to determine the permanent site for Space Command Headquarters; and
- Directs the National Security Space Launch (NSSL) program phase 2 to be implemented to sustain a healthy space industrial base and requires the Secretary of the Air Force to develop technologies to support NSSL in the future.

#### Superiority on Land

- Supports critical Long-Range Precision Fires and Integrated Air and Missile Defense (IAMD) priorities of the Army including Precision Strike Missile, Hyper-Velocity Projectiles, Lower-Tier Air Missile Defense Sensor, High-Energy Lasers, Indirect Fire Protection Capability Increment 2, and the IAMD Battle Command System;
- Requires a joint review of Integrated Air and Missile Defense emerging advanced threats, projected capabilities and force structure, and planned investments to ensure a robust, layered, and integrated defense;
- Accelerates joint counter unmanned aerial systems (C-UAS) capabilities by adding more than \$47 million for C-UAS research, experimentation, testing, operational demonstration, and the newly established Joint C-UAS Office;
- Authorizes additional funding to accelerate Army Multi-Domain Task Forces in the Indo-Pacific;
- Supports the budget request for 60 UH-60L/M/V Blackhawks, 50 AH-64E Apaches, and 6 MH-47G Chinooks;
- Provides for an additional \$165 million to the CH-47 Chinook helicopter program for 5 CH-47F Block-II aircraft and advance procurement for future aircraft;
- Supports the Future Vertical Lift program request, and increases investment in Future Long Range Assault Aircraft advance development;
- Supports robust investment in close-combat forces lethality efforts including the Integrated Visual Augmentation System, body armor modernization, small-unit robotics, and the Soldier Enhancement Program; and
- Supports the Army's revised acquisition strategy for the Optionally Manned Ground Vehicle, and increases investment in Next Generation Combat Vehicle technologies.

#### Nuclear Forces

The United States' nuclear forces continue to be the foundation of our nation's security and are a critical element of a deterrence strategy that promotes peace and security around the world, particularly as potential adversaries expand and enhance their own nuclear forces.

The conference agreement authorizes funds for the sustainment and modernization of our nuclear deterrent, including Nuclear National Security Administration (NNSA) weapons programs and infrastructure recapitalization; Department of Defense submarines, ballistic and cruise missiles, aircraft, and command and control systems; as well as nuclear non-proliferation activities to meet critical national defense requirements in support of the National Defense Strategy.

Additionally, the report better aligns the NNSA and DOD budget processes by modifying and clarifying the Nuclear Weapons Council's (NWC) roles and responsibilities. This includes updating the process by which the NNSA budget is prepared to ensure that the NWC is more involved in the development of the budget and is better able to determine whether the NNSA budget request meets our military's requirements, while improving transparency to Congress.

The Conference Report encourages the NNSA to continue modernizing our nation's nuclear stockpile, including the development of the W93 warhead, while strengthening governance and management of the joint nuclear weapons life cycle process. It also continues to support the maintenance of an appropriately-sized intercontinental ballistic missile force to deter large-scale strategic attacks, and does not place any additional limitations on the testing capabilities needed to ensure a safe, secure, and effective nuclear weapons stockpile.

#### Maintaining or Regaining our Technological Advantage

As our strategic competitors develop advanced weapons, equipment, and technology, the United States risks losing our comparative advantage – and in some cases, we already have. The FY21 NDAA Conference Agreement directs deliberate investments and implements knowledge-based policies that will accelerate innovation, with a particular focus on technology areas deemed critical to the NDS, such as hypersonic weapons, artificial intelligence, directed energy, quantum computing, biotechnologies and beyond. The FY21 NDAA Conference Report:

- Establishes a steering committee on emerging technology and national security threats
- Continues U.S. leadership in artificial intelligence (AI) research and development and accelerates DOD's research and development into AI capabilities;
- Encourages the development of hypersonic weapons, as well as defense against the hypersonic weapons of our competitors;
- Includes several provisions designed to recruit and retain talent with science and technology expertise, including authorizing higher pay for the most in-demand skillsets and requiring a study comparing methods for recruiting and retaining technology researchers used by both the U.S. and Chinese governments;
- Encourages a tailored approach to prototyping critical subsystems to mature new technologies and reduce technical risks for lead ships in new classes of naval vessels;
- Supports the development of fifth-generation (5G) wireless networks;
- Requires an assessment of U.S. efforts to develop biotechnologies and biotechnology capabilities as compared to our adversaries; and
- Requires an independent technical risk assessment and certification by the Secretary of the Navy prior to contracting for certain unmanned surface vessels with Research, Development, Test, and Evaluation funding.

#### Strengthening Cybersecurity

The FY21 NDAA Conference Report ensures that the United States protects its dominance in cyber space. To this end, the Report adopts 23 recommendations from the Cyberspace Solarium Commission, which was established in the FY19 NDAA. These include provisions to:

- Establish the National Cyber Director position within the Executive Office of the President;
- Strengthen the Cybersecurity and Infrastructure Security Agency (CISA) at the Department of Homeland Security;
- Codify the importance of critical infrastructure to domestic cybersecurity;
- Empower the government to better protect against cyber attacks;
- Assess the establishment of a defense industrial base threat information sharing program and defense industrial base threat hunting program;
- Add a force structure assessment in the quadrennial cyber position review; and
- Conduct a review of existing statutes, rules, and regulations that govern the use of the National Guard in response to significant cyber incidents.

Other provisions related to enhancing our nation's cybersecurity strategy and cyber warfare capabilities include:

- Updating the responsibilities of the Principal Cyber Advisor to lead coordination of all policies and programs related to defense industrial base cybersecurity;
- Evaluating options for establishing a cyber reserve force;
- Requiring the Secretary of Defense to develop a framework for cyber hunt forward operations that will improve effectiveness and consistency in efforts coordinated with foreign partners; and
- Setting up a pilot program on the use of speed-based metrics to evaluate the effectiveness of cybersecurity providers, products and technologies.

### **Reshaping Pentagon Management to Maximize Innovation, Accountability, and Lethality**

For our military to perform at its best, the Pentagon must operate as a modern, responsive, 21<sup>st</sup>-century enterprise, while making the most of limited resources. Since the FY15 NDAA, Congress has instituted major reforms to the Pentagon's bureaucracy and business systems and practices. Continuing to build on previous legislation, the FY21 NDAA Conference Report encourages the Pentagon to continue to strengthen the defense industrial base, to improve the efficient, effective, and economical administration and operation of the Department, to continue implementation of significant acquisition reforms, and to reduce waste and redundancies wherever possible. In particular, the Conference Report takes steps to address overreliance on manufacturing in China and requires the Secretary of Defense to issue guidance on reform and to deliver a new framework for reform that focuses on true reform activities, rather than a collection of "efficiencies" created by program delay or cancellation, or changes in requirements.

#### National Security Innovation Base and Supply Chain

For the past several years, the Armed Services Committees have had increasing concerns over the vulnerability of the defense industrial base, including the ability to attract new performers and an overreliance on manufacturing by foreign adversaries. COVID-19 further exposed these vulnerabilities. The Conference Report continues to reshape a National Security Innovation Base by:

- Elevating the Deputy Assistant Secretary of Defense for Industrial Policy to a Senate-confirmed Assistant Secretary, in line with how important this area has become;
- Emphasizing industrial cooperation within the National Technology and Industrial Base and establishing a process to consider additional member countries;
- Encouraging the Department to further align small business initiatives explicitly in support of industrial policy objectives;
- Directing a comprehensive approach to assess supply chain risks for a list of high-priority items, including: microelectronics, medical devices, pharmaceuticals, and aluminum;
- Restricting sourcing for certain items, including strategic and critical materials, certain components for naval vessels, and electronics such as microelectronics and printed circuit boards;
- Requiring the national security strategy for the national technology and industrial base to specifically assess gaps related to drugs, biological products, and critical medical supplies; and
- Mandating recipients of federal agency contracts or grants to disclose beneficial ownership.

#### Transparency and Accountability

The Conference Report also encourages the Department to increase transparency and improve coordination with Congress by modernizing its processes for responding to congressional

reporting requirements and creating congressional budget justification materials. The report requires the Assistant Secretary of Defense (Legislative Affairs) and the Chief Information Officer to work together to modernize the Pentagon's outdated system for managing congressionally required reports and provides \$1 million for modernizing that system, which is also intended for use by the Armed Services Committees.

The agreement also requires the Government Accountability Office to review steps taken by the Department of Defense and the Armed Services Committees to modernize the congressional reports process and system. The Conference Report requires the Under Secretary of Defense (Comptroller) to deliver an annual report to the congressional defense committees with ideas for modernizing the congressional budget justification materials in support of increased and more responsive transmission of budgetary data to the committees.

The Conference Report also requires biannual reporting on the implementation of U.S. Special Operations Command's Comprehensive Review of Special Operations Forces Culture and Ethics.

#### Audit

The Conference Report encourages DOD to be a responsible steward of taxpayer funds by ensuring it has sufficient resources and appropriate levers in place to conduct its independent annual financial audit and work toward a clean audit, first by including a permanent extension of the Financial Improvement and Audit Readiness report requirement. The report also requires the Under Secretary of Defense (Comptroller) to establish incentives to achieve auditability and unqualified opinions, and it tasks the same office with providing unfunded requirements to Congress to potentially accelerate audit-related activities.

#### Implementation of Acquisition Reform

The Conference Report continues implementation of acquisition reform, including:

- Directing assessments of how the services manage risk and develop requirements under the Department's new Adaptive Acquisition Framework;
- Requiring the Department to take steps to better balance security and innovation in software development and acquisition;
- Requiring digital modernization of the Department's analytical and decision-support processes for managing and overseeing acquisition programs;
- Strengthening requirements for the planning, execution, and oversight of life cycle sustainment activities to reduce the total cost of weapons systems and improve reliability and maintainability; and
- Transferring and reorganizing certain acquisition statutes in Title X.

#### Improving Civilian Leadership at the Pentagon

The FY21 NDAA Conference Report repeals the creation of the DOD Chief Management Officer position.

The Conference Report also clarifies the responsibilities of the Assistant Secretary of Defense for Special Operations and Low-Intensity Conflict to ensure effective civilian oversight and advocacy of Special Operations Forces and to ensure this force is appropriately aligned with the objectives of the National Defense Strategy.

Finally, the Conference Report reestablishes the Assistant Secretary of Defense for Energy, Installations, and Environment.

## **Combating Transnational Threats**

While the National Defense Strategy prioritizes strategic competition as our top security challenge, the United States faces numerous complex threats, including those posed by terrorist organizations around the world. To address these threats, the FY21 NDAA Conference Report extends and strengthens authorities intended to support the capabilities of international partners to combat terrorism so the U.S. can enhance its focus on NDS priorities.

### U.S. Central Command

The FY21 NDAA extends the authorization for DOD to provide support for reconciliation activities led by the Government of Afghanistan and authorizes \$4 billion to providing assistance to the Afghan National Security Forces. The agreement requires the Administration to submit a comprehensive, interagency assessment of the risks and impacts before using funds to draw down U.S. military personnel in Afghanistan below 4,000 or current levels and again before drawing down below 2,000, in recognition of the U.S.-Taliban and U.S.-Afghanistan agreements from February 29, 2020, and any future agreements. The conference agreement requires the resumption of comprehensive budgetary information for U.S. expenditures in support of Operation Freedom's Sentinel and a report on U.S. efforts to train and advise Afghan security forces regarding civilian harm mitigation. Finally, the Conference Report extends the Special Immigrant Visas program for Afghan partners who put their lives on the line supporting the U.S. mission in Afghanistan.

The conference agreement continues support for the Iraqi Security Forces, vetted Syrian groups, and other counterterrorism partners. The report also prohibits the use of funds to provide weapons or any form of support to al-Qaeda, the Islamic State of Iraq and Syria, al-Shabaab, the Islamic Revolutionary Guard Corps, and other terrorist organizations. Furthermore, the Conference Report requires more detailed budgetary information in future years with respect to DOD activities to defeat ISIS and counter Iran's malign behavior

The Conference Agreement includes a statement of policy on the conflict in Yemen and requires additional reporting on the provision of U.S. support to the Saudi-led coalition.

### Africa

The FY21 NDAA Conference Report addresses priority unfunded requirements of United States Africa Command to enhance force protection and personnel recovery and casualty evacuation of U.S. troops operating on the continent. It also requires the Secretary of Defense to brief the congressional defense committees if a decision is made to reduce the number of specified United States Armed Forces by more than 20 percent of current force levels on the continent. Further, the legislation requires a report on the activities and resources required to enhance security and economic partnerships between the United States and African countries.

### GTMO and Detention Policies

The FY21 NDAA continues long-standing prohibitions on transferring Guantanamo Bay (GTMO) detainees to the U.S. or certain other countries, on constructing or modifying new detention centers to house GTMO detainees in the U.S., and on closing or relinquishing control of GTMO.

## **Prioritizing and Protecting our Military Installations and Infrastructure**

### Military Construction

This year's NDAA authorizes a total of \$8.5 billion for military construction to meet defense needs in the United States and abroad. The bill grants the authority to accelerate construction of military facilities in rapidly changing crisis environments.

The Conference Report prohibits DOD from conducting an additional Base Realignment and Closure (BRAC) round in FY21, provides for seven land conveyances to local communities, and extends the land withdrawals for three of our nation's premiere military aviation ranges, the El Centro Range Complex in California, the Fallon Range Training Complex in Nevada, and Nevada Test and Training Range.

The legislation also continues to reform the military installation resilience project authority enacted in the FY20 NDAA to maintain, improve, or rapidly reestablish mission assurance, to prevent commercial and residential encroachment around military installations, and to prioritize energy security and energy resilience.

The Conference Report designates the Navy as the responsible military service in charge of military construction requirements for Fleet Readiness Centers that are tenant commands at a Marine Corps installation.

#### Base Naming

The Conference Report establishes a commission to study and provide recommendations, within three years, concerning the removal of names, symbols, displays, monuments, and paraphernalia that honor or commemorate the Confederate States of America. The commission is to develop an implementation plan, cost, and criteria for renaming, among other procedures.

#### Safe Military Installations

The FY21 NDAA Conference Report includes numerous provisions to promote the health and safety of personnel on military installations. This includes new restrictions on foreign military students' access on U.S. military bases in response to lessons learned from the attack at Naval Air Station Pensacola in December 2019. In addition, the Conference Report provides authority for the Army National Guard to access DOD funds for per- and polyfluoroalkyl substance remediation.

#### Spectrum Management

The bill protects both critical military applications and numerous civilian uses of the Global Positioning System (GPS) from potentially harmful interference, and outlines a path forward following the Federal Communications Commission's (FCC) decision to approve Ligado Networks' request for bandwidth for a terrestrial-based cellular network that put critical GPS signals at risk. The bill prohibits the use of DOD funds to comply with the FCC Order on Ligado until the Secretary of Defense submits an estimate of the costs associated with the resulting GPS interference, and directs the Secretary of Defense to contract with the National Academies of Science and Engineering for an independent technical review of the order to provide additional technical evaluation to review Ligado's and DOD's approaches to testing. The bill also prohibits the Secretary of Defense from entering into or continuing a contract with any entity engaged in commercial terrestrial operations within the frequency bands specified in the Ligado FCC order.

###