



H.R. 2685—Fiscal Year 2016 Defense Appropriations (Frelinghuysen, R-NJ)

CONTACT: MATT DICKERSON, MATTHEW.DICKERSON@MAIL.HOUSE.GOV, 6-9718

FLOOR SCHEDULE: H.R. 2685 IS EXPECTED TO BE CONSIDERED ON JUNE 10, 2015, UNDER A [RULE](#) PERMITTING ALL GERMANE AMENDMENTS TO BE OFFERED. AS A REMINDER, AMENDMENTS MUST BE OFFERED AT THE APPROPRIATE TIME DURING THE READING OF THE BILL.

TOPLINE SUMMARY

In thousands of dollars

	FY15 House Level	FY15 Enacted	FY16 President Request	FY16 House Level
Net Total Discretionary	570,386,820	554,306,000	577,877,613	578,656,000

The bill would provide a net total of \$490.235 billion in FY 2016 net total base discretionary budget authority. The bill would further provide \$88.421 billion in Global War on Terrorism (GWOT)/Overseas Contingency Operations (OCO) funding which does not count against the 302(b) level or the Budget Control Act cap. The bill would also provide \$514 million in mandatory funds that do not count against the discretionary caps. In total, the bill would provide \$579.17 billion in funds, a level that is \$778 million above the president’s budget request.

Net Total Discretionary Budget Authority is:

- \$778 million above the president’s budget request.
- \$24.35 billion above the enacted FY 2015 level.
- \$8.269 billion above the level proposed by the Appropriations Committee for FY 2015.

The committee report can be found [here](#), and the text of the legislation can be found [here](#).

CONSERVATIVE CONCERNS: Some conservatives may be concerned that virtually the entire bill is unauthorized. However, these programs would be authorized by [H.R. 1735, the National Defense Authorization Act for Fiscal Year 2016](#), which the House has passed and is currently pending in the Senate.

- **Expand** the Size and Scope of the Federal Government?: No
- **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:

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

Net Total Discretionary in Thousands of Dollars

FY15 House Level	FY15 Enacted	FY16 President Request	FY16 House Level	FY16 vs 15 House	FY16 vs 15 Enacted	FY16 vs President
128,127,640	128,004,618	130,491,227	122,727,607	- 5,400,033	- 5,277,011	- 7,763,620

Military Personnel would be appropriated \$122.728 billion, a level that is \$7.764 billion below the president’s budget request, \$5.277 billion below the FY15 enacted level, and \$5.4 billion below the level proposed by the House Appropriations Committee for FY15.

Military Pay Raise: This title would provide funding to increase pay for all military personnel by 2.3 percent in 2016.

Military Personnel End Strength: The bill would provide funding to support the end strength levels for active duty requested by the president’s budget. A summary of end-strength personnel levels is below, a more detailed table can be found in the Committee Report:

End Strength	FY 2015 Authorized	FY16 Budget Request	FY16 Recommended in this bill	Change from Request	Change from FY15
Total, Active Forces	1,310,680	1,305,200	1,308,915	+ 3,715	- 1,765
Total, Selected Reserve	820,800	811,000	819,200	+ 8,200	- 1,600
Total, Military Personnel	2,131,480	2,116,200	2,128,115	11,915	- 3,365

Sexual Assault Prevention and Response: The bill would provide \$263 million in funding for Sexual Assault Prevention and Response programs, equal to the president’s request.

Title II: Operation and Maintenance

Net Total Discretionary in Thousands of Dollars

FY15 House Level	FY15 Enacted	FY16 President Request	FY16 House Level	FY16 vs 15 House	FY16 vs 15 Enacted	FY16 vs President
164,631,638	161,655,679	176,517,228	162,286,489	- 2,345,149	+ 630,810	- 14,230,739

Operation and Maintenance (O&M) would be appropriated \$162.286 billion, a level that is \$14.231 billion below the president’s budget request, \$631 million above the FY15 enacted level, and \$2.345 billion below the level proposed by the House Appropriations Committee for FY15.

Title III: Procurement

Net Total Discretionary in Thousands of Dollars

FY15 House Level	FY15 Enacted	FY16 President Request	FY16 House Level	FY16 vs 15 House	FY16 vs 15 Enacted	FY16 vs President
91,227,819	96,493,861	106,914,372	98,559,445	+ 7,331,626	+ 2,065,584	- 8,354,927

Procurement would be appropriated \$98.559 billion, a level that is \$8.355 billion below the president’s budget request, \$2.066 billion above the FY15 enacted level, and \$7.332 billion above the level proposed by the House Appropriations Committee for FY15.

F-35: The bill would include a provision that would limit the procurement to no more than 36 F-35 airframes until the Secretary of Defense certifies that the Department of Defense has been delivered the Autonomic Logistics Information System (ALIS) that meets the necessary requirements.

Title IV: Research, Development, Test and Evaluation

Net Total Discretionary in Thousands of Dollars

FY15 House Level	FY15 Enacted	FY16 President Request	FY16 House Level	FY16 vs 15 House	FY16 vs 15 Enacted	FY16 vs President
63,362,890	63,713,275	69,784,963	66,150,652	+ 2,787,762	+ 2,437,377	- 3,634,311

Research, Development, Test and Evaluation (RDT&E) would be appropriated \$66.151 billion, a level that is \$3.634 billion below the president’s budget request, \$2.437 billion above the FY15 enacted level, and \$2.788 billion above the level proposed by the House Appropriations Committee for FY15.

Long Range Strike Bomber: The bill would provide \$786 million for the Long Range Strike Bomber, a level that is \$460 million below the president’s budget request.

Title VI: Other Department of Defense Programs

Net Total Discretionary in Thousands of Dollars

FY15 House Level	FY15 Enacted	FY16 President Request	FY16 House Level	FY16 vs 15 House	FY16 vs 15 Enacted	FY16 vs President
33,795,719	34,144,557	34,230,507	33,355,187	- 440,532	- 789,370	- 875,320

Other DOD programs would be appropriated \$33.355 billion, a level that is \$875 million below the president’s budget request, \$789 million below the FY15 enacted level, and \$441 million below the level proposed by the House Appropriations Committee for FY15.

Defense Health Program: The bill provides \$31.44 billion for the Defense Health Program, a level that is \$803 million below the president’s budget request, \$630 million below the FY15 enacted level, and \$195 million below the level proposed by the House Appropriations Committee for FY15. 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, \$29.5 billion is for Operations and Maintenance, \$373 million is for Procurement, and \$1.6 billion is for Research, Development, Test, and Evaluation (RDTE).

The level of RDTE is \$597 million above the president’s budget request. Research funding is provided for alcohol and substance abuse, ALS, Alzheimer, autism, bone marrow failure, breast cancer, other cancers (including bladder cancer, colorectal cancer, kidney cancer, listeria vaccine for cancer, liver cancer, lymphoma, melanoma and other skin cancers, mesothelioma, pancreatic cancer, pediatric brain tumors, stomach cancer, and the link between scleroderma and cancer), duchenne muscular dystrophy, gulf war illness, lung cancer, multiple sclerosis, orthopedic, ovarian cancer, prostate cancer, spinal cord, reconstructive transplant, traumatic brain injury and physiological health, tuberous sclerosis, vision, global HIV/AIDS prevention, the joint warfighter medical research program, and the trauma clinic research program.

Title VII: Related Agencies

Net Total Discretionary in Thousands of Dollars

FY15 House Level	FY15 Enacted	FY16 President Request	FY16 House Level	FY16 vs 15 House	FY16 vs 15 Enacted	FY16 vs President
1,015,194	1,021,600	1,044,023	1,021,923	+ 6,729	+ 323	- 22,100

The related agencies would be appropriated \$1.022 billion, a level that is \$22 million below the president’s budget request, \$323,000 above the FY15 enacted level, and \$7 million above the level proposed by the House Appropriations Committee for FY15.

Classified Programs: This title would provide for classified programs, including the Director of National Intelligence including 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. This information is published in the classified annex.

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

Net Total Discretionary in Thousands of Dollars

FY15 House Level	FY15 Enacted	FY16 President Request	FY16 House Level	FY16 vs 15 House	FY16 vs 15 Enacted	FY16 vs President
79,445,000	63,935,295	50,949,561	88,421,000	+ 8,976,000	+24,485,705	+37,471,439

GWOT/OCO would be appropriated \$88.421 billion, a level that is \$37.471 billion above the president’s budget request, \$24.486 billion above the FY15 enacted level, and \$8.976 billion above the level proposed by the House Appropriations Committee for FY15.

A-10: The bill would provide \$453 million to preserve the present A-10 force structure. The bill would further include a provision that would prohibit divestment of the A-10, the disestablishment of A-10 units, or the movement of A-10 aircraft to backup inventory status (Sec. 8120).

Assistance to Ukraine: The bill would include \$200 million to provide assistance to Ukraine. These funds would be for training, equipment, lethal weapons of a defensive nature, logistics, supplies and services.

Afghanistan Security Forces Fund: The bill would provide \$3.762 billion for the Afghanistan Security Forces Fund.

Iraq Train and Equip Fund: The bill would provide \$715 million for the Iraq Train and Equip Fund.

Syria Train and Equip Fund: The bill would provide \$600 million for the Syria Train and Equip Fund.

Permanent Base Prohibition: Sec. 9008 prohibits the establishment of permanent military bases in Iraq or Afghanistan, or control over the oil resources of Iraq.

Prohibition on Torture: Sec. 9009 prohibits the use of funds in contravention of the U.N. Convention Against Torture.

Syria: Sec. 90183 prohibits the use of funds to introduce U.S. armed forces into hostilities in Syria in contravention of the War Powers Resolution.

Notable General Provisions include:

Guantanamo Detainees: The bill would prohibit funds to transfer or release any detainee held at Guantanamo Bay into the U.S (Sec. 8100), modify any facility in the U.S. to house any Guantanamo detainee (Sec. 8101), prohibit funds in this to be used in contravention [Section 1035 of the National Defense Authorization Act for Fiscal Year 2014](#), which requires the Administration to notify Congress 30 days in advance of a detainee transfer to a foreign country (Sec. 8102).

National Sea Based Deterrent Fund for Submarines: The bill would prohibit the transfer of funds to the National Sea Based Deterrent Fund (Sec. 8122).

The [House-passed NDAA](#) would have established a new National Sea Based Deterrent Fund to provide the funding of the construction of the replacement for the Ohio-class ballistic missile submarines that would be separate from the Navy's normal shipbuilding account. The Department of Defense would have the ability to transfer unobligated funds from other DOD accounts to the National Sea Based Deterrent Fund without Congressional approval or going through the normal reprogramming process. The new account was created due to concerns that because the new submarines are projected to [cost \\$5 billion each](#), construction costs could crowd out needed funds for other projects in the shipbuilding account. An [amendment](#) to the NDAA offered by Rep. Blumenauer (D-OR) to eliminate the National Sea Based Deterrent Fund and require funding to go through the normal shipbuilding account was defeated by a [43 – 375](#) vote. A CRS report on the issue can be found [here](#).

The bill would provide \$971 million for the development of the replacement for the Ohio-class submarine under RDTE, a level that is equal to the president's budget request.

Second Amendment Provisions: Sec. 8115 would prohibit funding to implement the U.N. Arms Trade Treaty unless it is ratified by the Senate. Sec. 8017 would permanently 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.

Authorization of Use of Military Force: The bill includes an amendment proposed by Rep. Lee during markup that states a findings statement that "Congress has a constitutional duty to debate and determine whether or not to authorize the use of military force against ISIL" (Sec. 10001).

War Powers Resolution: The bill would prohibit the use of funds in contravention of the War Powers Resolution (Sec. 8103). The bill would also specifically prohibit funds to be used with respect to Iraq in contravention of the War Powers Resolution, including the introduction of U.S. forces into hostilities in Iraq (Sec. 8119).

Section 526: The bill would prohibit funds to enforce Section 526 of the Energy Independence and Security Act (EISA) of 2007, which would prohibit federal agencies from purchasing fuel from non-conventional sources such as coal-to-liquids, oil shale, and oil sands (Sec. 8128).

Rosoboronexport: The bill would prohibits 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. The amendment was adopted on a voice vote. The amendment pertains to the sale of Russian-made Mi-17 helicopters to the Afghan military (Sec. 8105).

Unauthorized Appropriations: The bill would include \$576 billion in appropriations for programs whose authorizations have or will be expired.

However, The House has passed [H.R. 1735, the National Defense Authorization Act for Fiscal Year 2016](#) to authorize these programs. Although the Senate has yet to pass this measure, the Congress has passed a NDAA in each of the last 53 years.

COMMITTEE ACTION: The House Appropriations Committee marked up H.R. 2685 on [June 2, 2015](#), and approved the bill by a voice vote. The committee additionally held a number of [oversight hearings](#).

ADMINISTRATION POSITION: According to the [statement of administration policy](#), "if the President were presented with H.R. 2685, his senior advisors would recommend that he veto the bill".

OMB Director Shaun Donovan wrote to Appropriations Committee Chairman Hal Rogers prior to markup of the bill expressing "serious concerns" about the bill, including with the overall spending levels included in the House budget and funding for the administrations priorities.

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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