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Fact Sheet: Selected Highlights of the FY2017 National Defense Authorization Act (H.R. 4909, S. 2943)

Pat Towell

Specialist in U.S. Defense Policy and Budget

Lynn M. Williams

Analyst in U.S. Defense Budget Policy

June 8, 2016

Congressional Research Service

7-5700

www.crs.gov

R44497

Introduction

Following are selected highlights of the version of the FY2017 National Defense Authorization Act (NDAA) passed by the House on May 18, 2016 (H.R. 4909) and the version reported by the Senate Armed Services Committee on the same date (S. 2943). **Table 1** provides a summary of amounts recommended for authorization. **Table 2** provides a summary of selected congressional budget reductions and restrictions, and **Table 3** provides a summary of selected Administration policy and cost-cutting proposals. **Table 4** provides a summary of elected congressional budget increases and policy initiatives.

This CRS Fact Sheet is designed as a time-urgent product offering Members the best available information pending publication of a CRS report on the FY2017 defense funding legislation.

Budget Cap Issue

Congressional action on the FY2017 National Defense Authorization Act (NDAA) has been fundamentally shaped by the legally binding caps on discretionary spending for defense programs and for non-defense programs, which were established by P.L. 114-74, the Bipartisan Budget Act of 2015 (BBA). The caps apply to what is commonly referred to as the “base” budget but not to amounts designated for “emergency” or for “overseas contingency/global war on terror” requirements. A central issue before Congress is the extent to which Congress and the President will approve Department of Defense (DOD) funding for FY2017 that (1) exceeds the relevant BBA cap; and (2) is exempt from that spending cap because it is designated as funding for Overseas Contingency Operations (OCO).

The OCO category of funding—which is not defined in law—was adopted by the Obama Administration in 2009 to encompass funding associated with operations in Iraq and Afghanistan. In subsequent budgets, the number of operations funded has increased and the scope of funding designated as OCO has expanded.

The 2015 BBA increased binding caps on defense and non-defense discretionary appropriations for FY2016 and FY2017, which had originally been codified by the Budget Control Act (BCA) of 2011 (P.L. 112-25). Those spending caps are enforced by a process of “sequestration.”¹ However, the BCA caps do not apply to appropriations designated by both Congress and the President as funding either (1) for an emergency, or (2) for OCO purposes. In addition to raising the binding caps on defense and non-defense spending, the 2015 BBA identified non-binding target levels of OCO funding for FY2016 and FY2017 for both the DOD budget and international affairs budget² (which falls into the non-defense category).

The FY2017 NDAA debate may focus, in part, on differences between the Administration and Congress over how much of the FY2017 DOD budget designated as OCO funding—and thus exempt from the budget caps—would be used for base budget purposes. An underlying issue is whether defense spending and non-defense spending for base budget purposes are both allowed to exceed the budget caps by roughly similar amounts—without triggering sequestration—through use of OCO-designated funding. The Administration and the congressional minority leadership have objected to providing defense funding for base budget requirements in excess of the

¹ See CRS Report R42972, *Sequestration as a Budget Enforcement Process: Frequently Asked Questions*, by Megan S. Lynch.

² This is designated the State Department, Foreign Operations and Related Programs (SFOP) budget.

spending cap unless it is accompanied by a comparable increase in funding for non-defense, base budget programs.³

The Administration’s DOD budget request included \$5.1 billion in OCO funding to support what it considers base budget requirements. Its budget justification material makes several references to a similar enhancement of the non-defense foreign affairs budget, although the State Department published no estimate of the amount of funding involved. A comparison of the foreign affairs agencies’ OCO budget for FY2016 and their OCO request for FY2017 with their OCO budget for FY2015—the last year of funding not affected by BBA—suggests that the international affairs budget’s “OCO-for-base” amount is in excess of \$5.0 billion—roughly the same as in the DOD budget request.⁴

In comparing the Administration’s FY2017 defense budget request and H.R. 4909 as reported by the House Armed Services Committee, the total amounts designated for base budget requirements are very similar and are in alignment with the BBA cap for FY2017. Likewise, the total OCO amounts reflect the BBA—the Administration request and the House committee-reported bill each designate \$58.8 billion of the amount authorized for DOD as OCO funding. (See **Table 1**.)

However, the House-passed bill would dedicate \$23.1 billion of OCO-designated funding to DOD base budget purposes—\$18.0 billion more than the Administration proposed. According to the House Armed Services Committee, the remaining OCO funds authorized by H.R. 4909—amounting to \$35.7 billion—would cover the cost of OCO through April 2017.⁵ By then, the committee says, the newly elected President could request a supplemental appropriation to cover OCO funding requirements through the remaining months of FY2017.

Senator John McCain, chairman of the Senate Armed Services Committee, has proposed an amendment to S. 2943 that would authorize an additional \$17 billion designated as OCO funding but to be used for base budget purposes. If the amendment were adopted, it would align the Senate bill more closely with the House-passed version.

Table 1. FY2017 National Defense Authorization Act (H.R. 4909, S. 2943)

amounts in millions of dollars of discretionary budget authority

Bill Title	Budget Request	House-Passed Bill (H.R. 4909)	Senate Committee-Reported Bill	Conference Report
National Defense Base Budget				
Procurement	101,971.6	103,062.3	102,435.0	
Research and Development	71,391.8	71,629.8	71,227.2	
Operation and Maintenance	171,318.5	169,325.3	171,389.8	
Military Personnel	135,269.2	134,849.8	134,018.4	

³ See OMB, “Statement of Administration Policy on H.R. 4909, National Defense Authorization Act for Fiscal Year 2017,” May 16, 2016, https://www.whitehouse.gov/sites/default/files/omb/legislative/sap/114/saphr4909r_20160516.pdf; and Senator Harry Reid, “Reid: Senate Must Give Defense Bill Deliberative Approach It Deserves,” press release, May 25, 2016 http://www.reid.senate.gov/press_releases/2016-05-25-reid-senate-must-give-defense-bill-deliberative-approach-it-deserves#.VIGXYE0UVFo.

⁴ See U.S. Department of State, *Congressional Budget Justification Material for the Department of State, Foreign Operations, and Related Agencies*, pp. 137-38, <http://www.state.gov/documents/organization/252179.pdf>.

⁵ H.R. 4909’s authorization for Operation and Maintenance (O&M) funding designated as OCO would expire on April 20, 2017 (Section 1504).

Bill Title	Budget Request	House-Passed Bill (H.R. 4909)	Senate Committee-Reported Bill	Conference Report
Defense Health Program and Other Authorizations	36,557.0	37,025.6	37,398.0	
Military Construction/Family Housing	7,444.1	7,694.0	7,477.5	
Subtotal: DOD Base Budget	523,952.1	523,586.9	523,945.8	
Atomic Energy Defense Activities	19,240.5	19,512.1	19,167.6	
Defense-related Maritime Administration ^a	211.0	300.0	n/a	
TOTAL: National Defense Budget Function (050) Base Budget	543,403.6	543,399.0	543,113.4	
DOD OCO Budget	58,798.0	58,793.5	58,890.5	
GRAND TOTAL: FY2017 NDAA	602,201.6	602,192.5	602,004.0	

Source: H.R. 4909 and H.Rept. 114-537, Report of the House Armed Services Committee to accompany H.R. 4909; S. 2943 and S.Rept. 114-255, Report of the Senate Armed Services Committee to accompany S. 2943.

Note:

- a. Funding authorization for this program, provided in Title XXXV of the House bill, is outside the jurisdiction of the Senate Armed Services Committee.

Table 2. Selected Congressional Budget Reductions and Prohibitions

Issue	House Committee-Reported Bill (H.R. 4909)	Senate Committee-Reported Bill	Conference Report
Administration efforts to close the detention facility at Guantanamo Bay, Cuba	Prohibits transferring detainees to the United States (Section 1032) or to certain other countries (Section 1034)	Prohibits permanently transferring detainees to the United States or to certain other countries (Sections 1021, 1026, 1029); allows temporary transfer to U.S. for medical treatment (Section 1024)	
Funds cut from the request on grounds that unobligated balances from prior budgets (or anticipated slower-than-planned obligations in FY2017) will make up the difference	Cuts \$1.77 billion, of which \$1.12 billion comes from the Operation and Maintenance accounts	Cuts \$935 million, of which \$880 million comes from the Military Personnel accounts	
Fuel prices assumed in the budget request	Cuts \$1.45 billion on the assumption that actual prices in FY2017 will be lower	Cuts \$822 million on the assumption that actual prices in FY2017 will be lower	
Foreign currency exchange rate assumptions	Cuts \$429 million on the assumption that the goods and services bought by U.S. forces abroad will cost less than budgeted due to value of the dollar	Cuts \$121 million on the assumption that the goods and services bought by U.S. forces abroad will cost less than budgeted due to value of the dollar	

Source: H.R. 4909 and H.Rept. 114-537, Report of the House Armed Services Committee to accompany H.R. 4909; S. 2943 and S.Rept. 114-255, Report of the Senate Armed Services Committee to accompany S. 2943.

Table 3. Selected Administration Policy and Cost-Cutting Proposals

Administration Proposal	House Committee-Reported Bill (H.R. 4909)	Senate Committee-Reported Bill	Conference Report
1.6% raise in Military Basic Pay in lieu of the 2.1% raise that otherwise would occur by law ^a	Requires that pay be increased by 2.1% (Section 601); adds to the budget request \$330 million (in OCO funds)	Mandates 1.6 percent basic pay increase, as requested (Section 601)	
Reduce military end-strength by 27,015 active and 9,800 reserve component personnel	Adds to the Administration's end-strength request for 28,715 active and 25,000 reserve personnel; adds to the request \$3.24 billion (in OCO funds)	Authorizes end-strength totals at the level requested in the budget	
Introduce some new TRICARE fees and increase some existing fees and copays	Establishes TRICARE fees and copays similar to Administration's proposal (Section 701)	Significant changes to TRICARE system (Title VII, Subtitle A); would consolidate the medical departments of the Army, Navy, and Air Force with the Defense Health Agency (Section 721)	
Remove from service seven (of the 22) Aegis cruisers for modernization and eventual 1-for-1 replacement of cruisers now in service	Requires that no more than six cruisers be inactivated at one time and that contracts be signed for their modernization (Section 1024); adds \$202 million for operation (in OCO funds)	Requires that at least 11 (of the 22) cruisers be in service at all times, with 11 to be modernized and the other 11 replaced when they reach the end of their service lives (Section 1011)	
Disband 1 (of 10) active-duty carrier air wings (requiring change in current law)	Rejects proposed amendment to current law; adds \$86 million for wing operations (in OCO funds)	Incorporates the proposed change in law, allowing reduction to nine active-duty carrier air wings (Section 1088)	
To meet BBA budget caps, reduce FY2017 aircraft procurement funding by 12% (\$4.34 billion) below amount projected in early 2015	Adds a total of \$5.9 billion to the requested aircraft procurement authorization accounts (using OCO funds to avoid breaking budget caps)	Adds a total of \$353 million to the requested aircraft procurement accounts	
Plan a Base Realignment and Closure (BRAC) round ^b	Prohibits the use of funds for a BRAC round (Section 2707); cuts \$3.5 million slated for BRAC planning	Prohibits the use of funds for a BRAC round (Section 2702); cuts \$4 million slated for BRAC planning	

Source: H.R. 4909 and H.Rept. 114-537, Report of the House Armed Services Committee to accompany H.R. 4909; S. 2943 and S.Rept. 114-255, Report of the Senate Armed Services Committee to accompany S. 2943.

Notes:

- a. For background, see CRS In Focus IF10260, *Military Pay Raise*, by Lawrence Kapp.
- b. For background, see CRS In Focus IF10362, *The President's FY2017 Military Construction Budget Request*, by Daniel H. Else.

Table 4. Selected Congressional Budget Increases and Policy Initiatives

Issue	House Committee-Reported Bill (H.R. 4909)	Senate Committee-Reported Bill	Conference Report
Registration of Women for the Military Draft	Had been required by Section 528, adopted as a committee amendment by a vote of 32-30; provision was deleted by the rule governing floor debate	Required by Section 591	
Troop levels in Afghanistan	Adds \$2.33 billion to support deployment of 9,800 U.S. troops (rather than 5,500 as proposed in the budget)	No change to request	
Ballistic Missile Defense of U.S. Territory	Adds \$300 million (using OCO funds to avoid breaking budget caps); directs DOD to demonstrate space-based missile defense by 2025 (Section 1656)	Adds \$115 million (in base budget); would also amend current law, which states that it is the goal of the missile defense system to protect U.S. territory against a “limited” missile attack; Section 1665 would delete the word <i>limited</i>	
Ship Procurement	Increases shipbuilding authorization by a total of \$2.3 billion (in OCO funds); Includes funds for one Littoral Combat Ship (\$385 million), partial funding for a destroyer (\$433 million) and an amphibious landing transport (\$856 million), and \$263 million to accelerate construction of an aircraft carrier	Adds \$100 million; includes partial funding for a destroyer (\$50 million) and an amphibious landing transport (\$50 million); cuts \$28 million from request for Littoral Combat Ship	
Security Cooperation with partner countries^a	Recodifies several existing authorities to train and assist partner countries (Sections 1201-1206)	Broadens the range of purposes for which DOD can train, equip, and assist partner countries (Sections 1251-65)	
Organization of DOD and Strategic Planning^b	Revises existing law governing the scope and frequency of high-level strategic reviews (Sections 901-906)	Mandates wide-ranging changes in DOD organization (Sections 941 and 942)	
Maintenance and Repair of Facilities	Adds \$2.4 billion (in OCO funds)	Adds \$839 million (in base budget)	
National Guard and Reserve Equipment	Adds \$250 million	No change to request	

Source: H.R. 4909 and H.Rept. 114-537, Report of the House Armed Services Committee to accompany H.R. 4909; S. 2943 and S.Rept. 114-255, Report of the Senate Armed Services Committee to accompany S. 2943.

Note:

- a. For additional background, see CRS Report R44313, *What Is “Building Partner Capacity?” Issues for Congress*, coordinated by Kathleen J. McInnis
- b. For additional background, see CRS Report R44474, *Goldwater-Nichols at 30: Defense Reform and Issues for Congress*, by Kathleen J. McInnis

Table 5. CRS Defense Analysts

Area of Expertise	Name	Phone	Email
Specialist in National Defense	Else, Daniel	7-4996	delse@crs.loc.gov
Specialist in Military Ground Forces	Feickert, Andy	7-7673	afeickert@crs.loc.gov
Specialist in Military Aviation	Gertler, Jeremiah	7-5107	jpgertler@crs.loc.gov
Specialist in U.S. & Foreign National Security Programs	Hildreth, Steven A.	7-7635	shildreth@crs.loc.gov
Analyst in Defense Health Care Policy	Jansen, Don	7-4769	djansen@crs.loc.gov
Analyst in Military Manpower Policy	Kamarck, Kristy	7-7783	kkamarck@crs.loc.gov
Specialist in Military Manpower Policy	Kapp, Lawrence	7-7609	lkapp@crs.loc.gov
Specialist in Nonproliferation	Kerr, Paul	7-8693	pkerr@crs.loc.gov
Analyst in International Security	McInnis, Kathleen J.	7-1416	kmcinnis@crs.loc.gov
Analyst in Intelligence and National Security Policy	Miles, Anne Daugherty	7-7739	amiles@crs.loc.gov
Specialist in Nonproliferation	Nikitin, Mary Beth D.	7-7745	mnikitin@crs.loc.gov
Specialist in Naval Affairs	O'Rourke, Ron	7-7610	rorourke@crs.loc.gov
Specialist in Defense Acquisition	Schwartz, Moshe	7-1463	mschwartz@crs.loc.gov
Specialist in National Security Policy and Information Operations	Theohary, Catherine A.	7-0844	ctheohary@crs.loc.gov
Specialist in U.S. Defense Policy and Budget	Towell, Pat	7-2122	ptowell@crs.loc.gov
Analyst in U.S. Defense Budget Policy	Williams, Lynn	7-0569	lmwilliams@crs.loc.gov
Specialist in Nuclear Weapons Policy	Woolf, Amy F.	7-2379	awoolf@crs.loc.gov

Author Contact Information

Pat Towell
Specialist in U.S. Defense Policy and Budget
ptowell@crs.loc.gov, 7-2122

Lynn M. Williams
Analyst in U.S. Defense Budget Policy
lmwilliams@crs.loc.gov, 7-0569