



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

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(House Rules)

## STATEMENT OF ADMINISTRATION POLICY

### **H.R. 4435 – Howard P. “Buck” McKeon National Defense Authorization Act for FY 2015**

(Rep. McKeon, R-California, and 1 cosponsor)

The Administration appreciates the House Armed Services Committee’s continued support of our national defense and supports a number of the provisions in H.R. 4435, the Howard P. “Buck” McKeon National Defense Authorization Act for Fiscal Year (FY) 2015. In particular, the Administration appreciates the support of the Committee for authorities that assist the warfighter in operating in unconventional and irregular warfare and countering unconventional threats, support capacity-building efforts with foreign military forces, and support on-going operations, as well as the Committee’s support for programs that would improve the health and well-being of the force.

While there are a number of areas of agreement with the Committee, the Administration has serious concerns with provisions that would constrain the ability of the Department of Defense (DOD) to align military capabilities and force structure with the President’s defense strategy and to reduce unneeded costs. As we face this time of uncertainty in both the fiscal and security environments, we must ensure that scarce resources are directed to the highest priorities that our military requires to keep the Nation safe and prepare for future threats.

In the Administration's view, the risk to the Nation will grow significantly should Congress not accept reforms proposed in the FY 2015 Budget. The bill does not include meaningful compensation reforms and other cost saving measures, rejects many of the Department’s proposed force structure changes, and restricts DOD’s ability to manage its weapon systems and infrastructure. In aggregate, the Committee’s changes to the President’s proposed defense program would eliminate more than \$50 billion in savings over the next five years and force DOD to alter its recommended balance among capability, capacity, and readiness in order to retain unnecessary overhead and force structure. The Committee’s changes increase the risk to the Department’s ability to implement the President’s defense strategy, contributing to a military that will be less capable of responding effectively to future challenges. In addition, the bill’s continuation of unwarranted restrictions regarding detainees held at the detention facility at Guantanamo Bay, Cuba, undermines our national security.

If the bill presented to the President impedes the ability of the Administration to properly direct scarce resources for our military, or continues unwarranted restrictions regarding detainees, the President’s senior advisors would recommend to the President that he veto the bill.

The Administration looks forward to working with the Congress to address these and other concerns, a number of which are outlined in more detail below. The Administration also looks

forward to reviewing a classified annex and working with the Congress to address any concerns on classified programs.

Guantanamo Detainee Restrictions: The Administration strongly objects to sections 1032 and 1033, which would prohibit the use of funds for the construction or modification of any facility to house Guantanamo detainees in the United States and for the transfer of detainees to the United States. The President has repeatedly objected to the inclusion of these and similar provisions in prior legislation and has reiterated his call to Congress to lift the restrictions. As the President said in his State of the Union Address, “this needs to be the year Congress lifts the remaining restrictions on detainee transfers and we close the prison at Guantanamo Bay.” 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. Section 1033 would, moreover, violate constitutional separation-of-powers principles under certain circumstances.

Compensation Reform: To achieve a proper balance between DOD’s obligation to provide competitive pay and benefits to service members and its responsibility to provide troops the finest training and equipment possible, it is imperative to slow the growth of basic pay and housing allowances, modernize military healthcare, and reform how commissaries operate. The Administration strongly encourages members of Congress to support these reforms, which would save \$2 billion in FY 2015 and \$31 billion through FY 2019. While the Administration looks forward to the recommendations of the Military Compensation and Retirement Modernization Commission on long-term compensation, modernization, and retirement issues, delaying DOD’s holistic package of proposed initial changes will only result in increased costs and risks to the force.

Restricting Army National Guard and Active Army Force Structure Changes: The Administration strongly objects to section 1050, which would limit Army National Guard and Active Army force structure changes. As DOD transitions out of a decade of war, military end strength and force structure changes are necessary to shape a force that is more agile and technologically superior and ready to respond to requirements. These changes are necessary to allow DOD to make necessary investments in readiness, modernization, and training.

Limitations on Retirement of Weapon Systems: The Administration strongly objects to provisions that would restrict the Department’s ability to retire weapon systems and aircraft platforms in accordance with current strategic and operational plans. These divestitures are critical and would free up funding for higher priority programs. Specifically, the Administration strongly objects to sections 131, 132, and 1026, which are inconsistent with DOD’s fiscal constraints and current priorities. Section 132 would restrict DOD from obligating or expending funds to retire A-10 aircraft. Divesting the A-10 will save over \$4.2 billion through FY 2019. The joint force will retain several multi-mission aircraft capable of performing the close air support mission. The Administration also objects to the Committee authorizing Overseas Contingency Operations (OCO) funding for the continued operation of the A-10 fleet. Longstanding criteria for OCO eligibility clearly exclude such uses.

Likewise, section 1026, which would restrict DOD from obligating or expending any FY 2015 funds for the retirement, preparation for retirement, inactivation, or storage of a cruiser or dock landing ship, is unaffordable over the long term. Further, this language would limit the Navy's ability to implement a phased modernization program that would provide eleven modernized cruisers and three dock landing ships through the 2030's. This provision also directs modernization of two cruisers in FY 2015, which does not provide the Navy sufficient time to appropriately plan and purchase the required long lead-time materials. Finally, section 131 would prohibit the cancellation or modification of the C-130 Avionics Modernization Program (AMP). DOD plans to replace the C-130 AMP with a less expensive, fully capable alternative that has been validated by independent study to ensure that the fleet continues to meet future requirements.

Base Realignment and Closure (BRAC): The Administration strongly objects to section 2711, which would preclude any funds being authorized for use toward an additional BRAC round. This impairs the ability of the Executive Branch to plan for contingencies or make other needed adjustments that would improve military effectiveness and efficiency. The Administration strongly urges the Congress to provide the BRAC authorization as requested, which would allow DOD to rightsize its infrastructure while providing important assistance to affected communities. Without authorization for a new round of BRAC, DOD may not properly align the military's infrastructure with the needs of our evolving force structure, which is critical to ensuring that limited resources are available for the highest priorities of the warfighter and national security.

National Guard Civil and Defense Support: The Administration strongly objects to section 513, which would authorize Governors and Adjutants General of the various States to expend DOD funds to employ the National Guard of their States to perform support operations, missions, or activities in support of a civil authority of a State or Federal agency. This unwarranted intrusion on the authorities of the President and the Secretary of Defense would impose significant fiscal burdens on an already shrinking Defense budget in order to fund non-Defense missions, would expose DOD to legal and fiscal risks for missions not under its control, and would circumvent the national response system.

Limitation on Use of Funds with Respect to Certification of Certain Flights by the Russian Federation under the Treaty on Open Skies: The Administration strongly objects to section 1222, which would place limitations on the use of funds for the United States to exercise its rights under the treaty to authorize or permit a certification of new Russian aircraft or sensors used for Open Skies Treaty observation missions. This limitation would infringe on the ability of the United States to implement its rights and obligations under the Treaty. A prohibition on U.S. participation in certification procedures would prevent the United States from reviewing, examining, or raising concerns regarding a proposed Russian aircraft or sensor, but would have no bearing on the right of other States Parties to certify a Russian aircraft and its sensors, which would be permitted to fly in observation missions over the territories of all States Parties, including the United States.

Retention of Missile Silos: The Administration strongly objects to section 1634, which would require the Secretary of Defense to preserve each intercontinental ballistic missile silo that contains a deployed missile as of the date of the enactment of this Act in at least a warm status. This section would impinge on the President's authority to determine the appropriate force structure to meet nuclear deterrence requirements, to determine the number of strategic delivery

vehicles needed to meet national security requirements, and to implement changes in those forces. While it is the President's determination that 50 of the current 450 Minuteman III silos will remain in a non-deployed—warm—status, this provision would tie the hands of all presidents with respect to force structure through February 5, 2021. Moreover, as the Department currently plans to perform routine testing and maintenance on some silos, which would temporarily isolate them from the interconnected and redundant command and control system of the missile field during overhaul, the provision as drafted could prevent the Department from conducting this necessary testing and maintenance.

Missile Defense of Allies and Missile Defense Cooperation: The Administration strongly objects to section 1641, which would require deployment of the Aegis Ashore site in Poland no later than 2016 and of short-range air and missile defense capability to Poland no later than December 2014. Accelerating the deployment of the Aegis Ashore site by two years would impose large costs on, and risk to, other Navy programs and likely would not change Russia's security calculation in Europe. Similarly, deploying short-range air and missile defense capability to Poland would limit the ability of the United States to meet its worldwide operational missile defense requirements. The Administration also objects to sections 1223 and 1224, which would infringe on the President's ability to conduct foreign policy.

East Coast Missile Site Planning and Design: The Administration strongly objects to the authorization in section 4601 of \$20 million in FY 2015 for planning and design of an east coast missile field. The authorization is premature and potentially wasteful.

Cooperative Threat Reduction (CTR) and Security Cooperation with Russia: The Administration strongly objects to section 1303, which would prohibit the obligation or expenditure of FY 2015 funds for CTR activities in the Russian Federation until the Secretary of Defense makes certain certifications, and strongly objects to sections 3120 and 3121, which would place restrictions on the use of funds by the National Nuclear Security Administration (NNSA) for any contact, cooperation, or transfer of technology between the United States and the Russian Federation and on defense nuclear nonproliferation cooperation activities at certain Russian defense sites. Nuclear security cooperation with the Russian Federation is in the U.S. national interest. Cooperation with Russia remains an essential element to the global effort to address the threat posed by nuclear terrorism. Critical bilateral nuclear nonproliferation activities are continuing in a number of key areas, and nuclear security is of paramount importance. The blanket restriction on the use of funds for "contact" or "cooperation" between the United States and the Russian Federation unconstitutionally interferes with the President's constitutional authority to conduct diplomacy. The Administration similarly objects to section 1221, which would limit the use of funds for military contact and cooperation between the United States and Russian Federation unless Russia fully complies with its obligations under the Conventional Armed Forces in Europe Treaty and the Intermediate-Range Nuclear Force (INF) Treaty, and withdraws its forces from Ukraine, or certain certifications are made. In addition, section 1225, among other things, purports to make a definitive finding that the Russian Federation is in material breach of its obligations under the INF Treaty and requires the President to report to Congress on whether the United States should remain a party to the INF Treaty and other international agreements. These provisions would hamper the President's ability to execute foreign policy.

Iran Nuclear Negotiations: The Administration has concerns with the Sense of Congress language on Iran in section 1264 or similar provisions purporting to set conditions on

negotiations. Preventing Iran from acquiring a nuclear weapon has been a top priority for the Administration toward which it has worked diligently with Congress and our international partners. The Administration appreciates Congress' important contributions to strengthening sanctions, which assisted in our ability to conclude a Joint Plan of Action and to pursue negotiations on a comprehensive solution. The International Atomic Energy Agency has assessed that under the Joint Plan of Action, Iran has taken specific and verifiable actions that have halted the progress of Iran's nuclear program and rolled it back in key respects. The ongoing P5+1 negotiations are the best opportunity to peacefully achieve the goal of preventing Iran from getting a nuclear weapon. By spelling out conditions for a final resolution before the conclusion of the negotiations, the bill undermines that vital effort. The Administration is fully committed to continuing to brief and consult closely with Congress so that the U.S. Government speaks with one voice and does not undermine our negotiators' efforts to achieve a strong deal that will protect our interests, our partners, and the international community.

Alternative Fuels: The Administration strongly objects to sections 314, 315, 316, and 317, which would impede DOD's use of alternative fuels. Sections 316 and 317 would inhibit development of a diverse, cost-competitive energy supply that enhances American energy security. A diverse approach to energy security -- one that includes both conventional and new sources -- will provide an enduring benefit for our economy and military capabilities. Section 315 would be burdensome and impractical to implement. DOD has made and will continue to make alternative fuels a regular and ongoing part of its logistics and operations. As refined products, alternative fuels are indistinguishable from conventional fuels. Section 314, which would exempt DOD from section 526 of the Energy Independence and Security Act of 2007, undercuts a law passed with strong bipartisan support that provides an environmentally sound framework for the development of future alternative fuels.

DOD Management: The Administration objects to section 903, which would establish the position of the Assistant Secretary of Defense for Installations and Environment (ASD(I&E)). While this section would eliminate the discretionary position of the Deputy Under Secretary of Defense for Installations and Environment (DUSD(I&E)), as required by law, it would increase the number of statutorily prescribed ASDs when DOD is working to streamline headquarters structure and reduce spending. The Administration also believes that its proposal to merge DUSD(I&E) and ASD(Operational Energy Plans and Program), and re-designate the office as the ASD for Installations, Energy, and Environment, would build synergies between installations, environment, and energy functions and activities. The Administration also objects to section 907, which would reverse the Secretary of Defense's November 2013 decision to reorganize the Office of Net Assessment.

Resubmission of 2014 Quadrennial Defense Review (QDR): The Administration objects to section 1078, which would require DOD to resubmit a report on the QDR that was released to Congress in March 2014. Given the broad scope of the 2014 QDR, resubmitting a report absent greater certainty about the future fiscal and security environment would yield a similar result and would not be a prudent use of DOD resources.

Operation and Maintenance Reductions: The Administration objects to the \$1.4 billion reduction of unobligated balances and the \$817.5 million reduction for contract services. The unobligated balances and contract services reductions will be applied to the same readiness programs that the Congress is increasing. Contract services fund critical readiness and depot maintenance

programs, but also provide support for congressional special interest items, such as tuition assistance, facilities maintenance, audit readiness, ROTC and military family programs, as well as sexual assault and suicide prevention.

Assessment and Limitation on Availability of Funds for Intelligence Activities and Programs of the United States Special Operations Command (USSOCOM) and Special Operations Forces (SOF): The Administration objects to section 1611, which would limit the availability of 50 percent of the funds authorized to be appropriated by this Act or otherwise made available for FY 2015 of USSOCOM Major Force Program-11 procurement, defense-wide, and research, development, testing, and evaluation, defense-wide, until the Secretary of Defense submits to Congress an assessment of the intelligence activities and programs of the SOF and USSOCOM. DOD does not object to conducting such an assessment, but the hold on funding would disrupt investment in critical future counterterrorism capabilities. This restriction would require delaying or canceling procurement and development of critical counterterrorism capabilities designed to support SOF operators in the field in a timely manner.

Refueling and Complex Overhaul (RCOH) of the U.S.S. George Washington (CVN 73): The Administration has concerns with the authorization to begin the RCOH of CVN 73 and section 1024, which limits the obligation and expenditure of funds authorized to be appropriated or otherwise made available to the Office of the Secretary of Defense, until funds are obligated for the planning of the RCOH of CVN 73. Without assurance that sequestration will be addressed and that future budget levels will be sufficient to ensure that CVN 73 can be adequately operated, maintained, crewed, and sustained in a balanced force structure that includes 11 carriers and 10 air wings, it would be unwise to fund efforts to conduct the RCOH in FY 2015, only to be forced to cancel it and inactivate CVN 73 in FY 2016 due to ongoing budget restrictions.

Unmanned Carrier-Launched Airborne Surveillance and Strike System (UCLASS): The Administration objects to section 213, which would restrict all funding for the UCLASS Program pending an additional requirements review, and to an authorization reduction in the bill of \$203 million. These reductions would increase total program cost and jeopardize the program's continued viability.

Littoral Combat Ship (LCS): The Administration objects to funding reductions for the LCS. The cuts leave the program with insufficient funds to procure three LCS in FY 2015, delaying the delivery of much needed capability to the Fleet. Deferring additional ships into FY 2016 would compound the already significant challenges the Navy faces in funding the shipbuilding account in a fiscally constrained environment while increasing overall costs to the Navy and increasing risk to the industrial base, including sub-tier suppliers.

Prohibition on Implementing Military Health System Modernization Study: The Administration objects to section 714. The timelines imposed by the reporting requirements, along with the mandatory 120-day waiting period, would significantly delay the implementation of improvements identified in the Military Health System Modernization Study. This delay would adversely affect medical readiness and clinical proficiency to the detriment of our military members and their families.

Directors and Deputy Directors of the Army and Air National Guard: The Administration objects to section 512, which would alter the selection process for leadership of the Army and

Air National Guards by allowing the Chief of the National Guard Bureau to recommend General Officers to serve in those positions. Although these recommendations would have to be made in consultation with the Secretary of the Army and the Secretary of the Air Force, these National Guard positions are charged with representing their respective services and are critical to the ability of the Service Secretaries concerned to execute their statutory responsibilities. Additionally, to ensure the appropriate civilian control of the military, the Service Secretaries should retain the current authority to recommend officers for appointment to these positions.

Military Land Withdrawals: The Administration has concerns with various provisions relating to military land withdrawals and transfers with respect to various military installations. While the current system of periodic legislative re-withdrawals is not particularly efficient and does not provide for the optimum land management regime, the Administration is not prepared to support transfers of such lands without careful consideration of the supporting legislative provisions. The Administration stands ready to consider measures and approaches to make the use of public lands for military needs more efficient.

Reducing the Force Structure at Lajes Air Force Base: The Administration objects to section 1048, which would prohibit the Secretary of the Air Force from reducing the force structure at Lajes Air Force Base. It is duplicative of section 341 of the FY 2014 National Defense Authorization Act. Because DOD is nearing completion of the section 341 requirements for Lajes, duplicating and amplifying these requirements is unnecessarily onerous. While the provision overall is objectionable, the Administration notes that the Comptroller General language impermissibly vests in an agent of Congress the power to exercise policy-making control over the post-enactment decisions of executive officials.

Disposition of Weapons-Usable Plutonium: The Administration strongly objects to section 3117, which would require the Secretary of Energy to continue construction of the Mixed Oxide Fuel Fabrication Facility. The Administration's plan to move the facility into cold stand-by in FY 2015 while it continues to explore more cost effective alternatives will save taxpayers billions of dollars while still maintaining the U.S. Government's commitment to disposing of unneeded plutonium.

Second Line of Defense (SLD) Funding Reduction: The Administration strongly objects to the significant reduction of funds for SLD. The Global Nuclear Detection Architecture integrates efforts across the U.S. Government to detect the movement of nuclear and radiological materials and the SLD program is a vital component of that architecture. Abruptly removing SLD capabilities would result in gaps in our defenses that cannot be filled by any other program. In addition, SLD implements key parts of the President's nuclear security agenda and is reflected in the Nuclear Security Summit process. Recent information from the IAEA also demonstrates that the demand for the expertise and programs in which SLD is the global leader is increasing as more countries finalize their plans for developing peaceful nuclear technology.

Plutonium Pit Production Capacity: The Administration strongly objects to section 3114, which would require the Secretary of Energy to accelerate pit production rates ahead of requirements. The Administration is committed to meeting military requirements for plutonium pit production capacity as set by the Nuclear Weapons Council. This directed increase is inconsistent with planned funding levels and would unnecessarily increase risk by requiring further trade-offs with other nuclear weapons programs. The Administration believes the plan put forward in the FY

2015 Stockpile Stewardship and Management Plan represents the best balance of programs to maintain the deterrent and provide for a responsive infrastructure.

Prototypes of Nuclear Weapons for Intelligence Purposes: The Administration strongly objects to section 3111, which would direct the national security laboratory directors to develop a multiyear plan and would require the Secretary of Energy to submit it to Congress without changes. The Secretary of Energy should review and approve the multiyear plan. Approval and publication of such a plan should be done by the government.

Production of Nuclear Warhead for Long-Range Standoff Weapon: The Administration objects to section 3116, which would require accelerating the Long Range Stand Off program to achieve a first production unit by 2025. Such an adjustment must be made through a deliberative process that takes into account the full set of military requirements. Accelerating the program would require increased funding through FY 2019 and significant cuts in other programs.

Authorized NNSA Personnel Levels: The Administration objects to section 3112, which would impose unduly restrictive limits on NNSA's ability to recruit, hire, retain, and reshape its workforce to meet its diverse missions by capping the staff at 1,650 full time employees. The FY 2015 request funds an appropriate level of staffing and reflects significant efficiencies. NNSA has achieved in federal staffing and support, including a staff reduction of 9.3 percent relative to FY 2012.

Defense Environmental Cleanup: The Administration objects to section 3102, which would eliminate the authorization of appropriations for the contribution to the Uranium Enrichment Decontamination and Decommissioning Fund. This funding is critical to the Administration's proposal to reauthorize the Fund to address the significant shortfall in resources allocated for cleanup of shutdown uranium enrichment plants that supported nuclear weapons production and commercial power generation.

DOE Nuclear Facilities Safety: The Administration objects to section 3203, which would reduce the authorized personnel strength of the Defense Nuclear Facilities Safety Board from 150 to 120 full-time employees. This provision would severely hamper the ability of the Board to provide external, independent oversight of DOE's defense nuclear facilities and compromise its core mission to protect workers and the public.

A number of the bill's provisions raise additional constitutional concerns, including with respect to the President's constitutional authority as Commander in Chief of the Armed Forces. The Administration looks forward to working with the Congress to address these and other concerns.

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