



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

September 11, 2023
(House Rules)

STATEMENT OF ADMINISTRATION POLICY

H.R. 4365 — Department of Defense Appropriations Act, 2024 (Rep. Granger, R-TX)

The Administration strongly opposes House passage of H.R. 4365, making appropriations for the Department of Defense (DOD) for the fiscal year (FY) ending September 30, 2024 and for other purposes.

In May, the Administration negotiated in good faith with the Speaker on bipartisan legislation to avoid a first-ever default and protect the Nation's hard-earned and historic economic recovery. This negotiation resulted in the Fiscal Responsibility Act (FRA) of 2023, which passed with overwhelming bipartisan support and set spending levels for FYs 2024 and 2025. The agreement held spending for non-defense programs roughly flat with FY 2023 levels, a compromise that protected vital programs Americans rely on from draconian cuts House Republicans proposed. The agreement also protected historic legislative accomplishments from the past two years, including the Inflation Reduction Act of 2022 (IRA), Honoring our PACT Act of 2022, CHIPS and Science Act, and the Infrastructure Investment and Jobs Act (Bipartisan Infrastructure Law).

House Republicans had an opportunity to engage in a productive, bipartisan appropriations process, but instead, with less than a month before the end of the fiscal year, are wasting time with partisan bills that cut domestic spending to levels well below the FRA agreement and endanger critical services for the American people. These levels would result in deep cuts to climate change and clean energy programs, essential nutrition services, law enforcement, consumer safety, education, and healthcare.

These bills include billions in additional rescissions from the IRA and other vital legislation that would result in unacceptable harm to clean energy and energy efficiency initiatives that lower energy costs and critical investments rural America.

The draft bills also include numerous new, partisan policy provisions with devastating consequences including harming access to reproductive healthcare, threatening the health and safety of Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex (LGBTQI+) Americans, endangering marriage equality, hindering critical climate change initiatives, and preventing the Administration from promoting diversity, equity, and inclusion.

The Administration stands ready to engage with both chambers of the Congress in a bipartisan appropriations process to enact responsible spending bills that fully fund Federal agencies in a timely manner.

If the President were presented with H.R. 4365, he would veto it.

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

Department of Defense

Policy Provisions. The Administration strongly opposes the numerous policy provisions that, if enacted, would impede the Department's ability to implement the National Defense Strategy and support the Nation's servicemembers and their families. Specifically, the Administration opposes those provisions that limit access to non-covered reproductive healthcare by servicemembers and their families, impede the ability of all servicemembers to serve to their fullest capacity, and undermine the United States' ability to fight foreign adversary disinformation. Including divisive policy provisions within an appropriations bill also dramatically increases the threat of a continuing resolution, which would further damage America's national security.

Executive Prohibition of DOD Reproductive Rights Policy. The Administration strongly opposes section 8146, which would prohibit the Department from spending funds to support access to non-covered reproductive healthcare. Access to reproductive healthcare is critical to servicemembers and their families, and the Department's ability to recruit, retain, and maintain the readiness of a highly qualified force, of which nearly 20 percent are women. The Secretary of Defense's October 20, 2022, memorandum titled *Ensuring Access to Reproductive Health Care*, and attendant policies were drafted and approved pursuant to a thoughtful and deliberate approach and are in full accordance with the law. Prohibiting the use of appropriated funds to implement these policies, as contemplated in section 8146, would, in effect, infringe on the Secretary of Defense's lawful authorities to promote a resilient military.

Multi-year Procurement Authority for Munitions. The Administration strongly supports the Committee's inclusion of multiyear procurement (MYP) authorities for critical munitions in section 8010, specifically PATRIOT Advanced Capability-3 Missile Segment Enhancement, Naval Strike Missile, Guided Multiple Launch Rocket System, Joint Air-Surface Standoff Missile, and Long-Range Anti-Ship Missile. However, the Administration strongly opposes the bill's absence of approval to pursue MYPs for Standard Missile 6 and the Advanced Medium Range Anti-Air Missile and the bill's lack of support for \$1.9 billion of Economic Order of Quantity (EOQ) funding in FY 2024. MYPs are the cornerstone of the Department's Critical Munitions Strategy and are necessary to meet operational needs of the warfighter. MYPs allow for greater stability in the munitions industrial base and workforce, reducing lead times and costs while increasing the number of munitions in the Department's inventory. Further, without EOQ, the Department cannot execute MYPs to generate projected cost savings and ensure the availability of high quantities of munitions necessary to support the readiness requirements of the United States and its allies and partners.

E-1 through E-6 Military Monthly Basic Pay Increases. The Administration appreciates the Committee's concern for the needs of the Nation's most junior enlisted members' compensation but strongly opposes making a significant, permanent change to the basic pay schedule before the completion of the Fourteenth Quadrennial Review of Military Compensation (QRMC). If enacted, this change would lead to pay compression in some areas of the enlisted military basic pay table, and would create an unfunded requirement of several billion dollars. This would remove an important incentive for enlisted

members to seek increased responsibilities and earn promotions at the grade of E-6 and higher, harming military readiness. Specifically, the Committee bill provides \$800 million in FY 2024 for this provision against a cost of \$4.4 billion in FY 2024 and \$23.4 billion over five years.

Transfer of Mexico from U.S. Northern Command (USNORTHCOM) to U.S. Southern Command (USSOUTHCOM) Area of Responsibility. The Administration strongly opposes section 8123, which would provide for USSOUTHCOM to assume responsibility for activities related to Mexico, and opposes any transfer of funds associated with this change in combatant command geographic responsibility. Enactment of section 8123 would unduly impede the President's authority, as Commander-in-Chief, to organize the Department through approval of a Unified Command Plan consistent with title 10, United States Code, section 161. Changing USSOUTHCOM's area of responsibility to encompass Mexico would also disrupt North America's unified defense approach and create a seam between two combatant commands on the U.S. border.

Resiliency and Survivability. The Administration strongly opposes the reduction of \$715 million as related to climate change and the inclusion of section 8147 in the Committee bill, which would prohibit the use of funds for certain emissions and climate data for Federal contract offers. The provision would prevent DOD from exercising due diligence in assessing risks to potential contract awardees, counter to the interests of U.S. taxpayers.

Civilian Personnel Funding Reduction. The Administration strongly opposes the \$1 billion reduction to civilian personnel funding. This reduction would degrade the Department's ability to execute its mission and operations, adversely impact readiness, and negatively affect civilian recruitment and retention, a vital piece of the total force. Civilians are a key element of the National Defense Strategy, serving as operators in areas such as intelligence, cybersecurity, security cooperation, and ongoing implementation of the Independent Review Commission on Sexual Assault recommendations on prevention and victim care and support. The \$1 billion reduction in the Department's request would result in an untenable downsizing and suppression of the civilian workforce. The funding reduction would also put at risk significant congressionally-directed efforts such as: research, development, and innovation; suicide prevention efforts; mental health care initiatives; prevention workforce initiatives; childcare staffing; military child education related staffing; housing oversight improvements; and spousal employment. While objecting to the \$1 billion decrease in civilian personnel funding, the Department looks forward to working with the Congress to execute the requested assessment and plan with respect to potential civilian workforce optimization.

Defense Microelectronics. The Administration opposes the \$257 million in reductions to the Trusted and Assured Microelectronics program and the Defense Advanced Research Projects Agency's Next-Generation Microelectronics Manufacturing initiative. These efforts, in conjunction with the CHIPS and Science Act (Public Law 117-167), are vital components of a broader national initiative to increase domestic semiconductor research and development and expand cutting-edge domestic chip manufacturing. These reductions would delay prototypes for next-generation defense capabilities needed for national security and jeopardize the creation of sector-specific jobs that drive economic growth across the United States.

Guantánamo Bay Prohibitions. The Administration strongly opposes sections 8124, 8125, 8126, and 8127, which would extend the prohibitions on the use of funds to: transfer Guantánamo Bay Detention Facility (GTMO) detainees to the United States (section 8124); transfer GTMO detainees to certain countries (section 8125); construct or modify facilities in the United States to house transferred GTMO detainees (section 8126); and close or realign United States Naval Station, Guantánamo Bay (section 8127). These provisions would interfere with the President’s ability to determine the appropriate disposition of GTMO detainees and to make important foreign policy and national security determinations regarding whether and under what circumstances to transfer detainees to the custody or effective control of foreign countries.

Decommissioning of Certain Naval Vessels. The Administration strongly opposes section 8073 of the bill, which would prohibit the decommissioning of certain naval vessels. Divesting ships on a case-by-case basis allows the Navy to prioritize investments in modernization, readiness, and other areas to ensure the Nation’s force structure remains capable and relevant to current and future challenges.

Constitutional Concerns

Section 8066 of the draft bill raises separation of powers concerns, including by conditioning the Executive’s authority to take certain actions on receiving the approval of the House and Senate Committees on Appropriations. In addition, section 8123, as drafted, would interfere with the President’s authority as Commander-in-Chief. Sections 8124 and 8125 restrict the President’s ability to transfer Guantánamo detainees. The President has repeatedly objected to provisions such as these on the ground that restricting the transfer of detainees to the United States and to the custody or effective control of foreign countries or entities in the context of an ongoing armed conflict may interfere with the Executive Branch’s ability to determine the appropriate disposition of detainees and to make important foreign policy and national security determinations regarding whether and under what circumstances such transfers should occur. The Administration also objects to sections 8149 and 8150, which would likely violate or raise serious concerns under the First Amendment. The Administration looks forward to working with the Congress to address these and other concerns.

The Administration looks forward to working with the Congress as the FY 2024 appropriations process moves forward.

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