



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
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(House Rules)

STATEMENT OF ADMINISTRATION POLICY

H.R. 3838 – Streamlining Procurement for Effective Execution and Delivery and National Defense Authorization Act for Fiscal Year 2026

(Rep. Rogers, R-AL)

The Administration appreciates the work of the House Committee on Armed Services on provisions of the National Defense Authorization Act (NDAA) that seek to deliver on President Trump’s promise to achieve peace through strength by rebuilding America’s military, re-establishing deterrence, and reviving the warrior ethos of America’s Armed Forces.

The President’s Fiscal Year (FY) 2026 Budget Request for the Department of Defense (DoD) was informed by the 2025 Interim National Defense Strategic Guidance (INDSG), which calls on DoD to advance three key priorities: (1) re-establish deterrence; (2) rebuild our military; and (3) revive the warrior ethos. Combined with funding provided by the One Big Beautiful Bill Act (P.L. 119-21), the President’s Budget Request envisions a paradigm-shifting defense budget that integrates both mandatory and discretionary spending into a single, historic defense topline surpassing \$1 trillion to implement the INDSG, while cutting egregious and wasteful spending. The Trump Administration is committed to restoring fiscal responsibility and appreciates that the bill acknowledges the Administration’s strategic approach to the defense funding topline.

The Administration appreciates the bill’s provisions that seek to deliver on the President’s promise to achieve peace through strength. The Administration’s position is that national security can only be achieved based upon a strong foundation of economic security and has therefore prioritized rebuilding the nation’s Defense Industrial Base, including specifically our shipbuilding capacity. The President’s Budget aims to allocate the nation’s resources in a deliberative and strategic fashion. The military of the future must be modernized, moving away from some status quo systems, and so its industrial base must also move away from status quo processes. The Administration is pursuing flexible and efficient investment in capabilities designed for manufacturability, unmanned platforms, incorporation of artificial intelligence, and use of advanced manufacturing techniques, many of which will come at lower costs. While the bill makes strides in certain areas, there is still more work to be done to ensure it does not tie the hands of the Administration to implement the President’s reforms at the Pentagon.

H.R. 3838 in its current form raises a number of constitutional issues. Under Article II of the Constitution, all of the Executive power is vested in the President, who must take care that the laws be faithfully executed. The Constitution confers upon the President the authority as Commander in Chief, giving him significant powers over the conduct of foreign affairs and

diplomacy. As detailed below, multiple provisions of H.R. 3838 infringe on the President's role as the Commander in Chief of the Armed Forces by constraining his ability to oversee foreign affairs and conduct diplomacy effectively, as well as impeding the President's authority to classify and control access to information bearing on national security.

The Administration looks forward to working with Congress to address our concerns, several of which are outlined below.

Oversight of United States Force Posture in Europe. The Administration strongly opposes section 1304, which places a prohibition on the use of funds conditional on a certification and an assessment being sent to congressional defense committees related to U.S. global force posture in the U.S. European Command area of responsibility. If the provision were enacted, it would severely complicate and constrain the ability of the President and the Secretary of Defense to manage the allocation of deployed forces expeditiously and in a manner that is fiscally responsible. Moreover, the provision raises constitutional concerns because it infringes on the President's role as Commander in Chief of the Armed Forces under Article II, his power to conduct diplomacy, and his control over classified information as the Nation's organ for foreign affairs. We welcome the opportunity to engage with Congress as the Department assesses its global force posture.

Oversight of the United States Africa Command. The Administration strongly opposes section 914, which places a prohibition on the use of funds conditional on a certification and an assessment being sent to congressional defense committees related to the force posture and structure of U.S. Africa Command. As with section 1304, if the provision were enacted, it would severely complicate and constrain the ability of the President and the Secretary of Defense to manage the allocation of deployed forces expeditiously and in a manner that is fiscally responsible. Moreover, the provision raises constitutional problems because it infringes on the President's role as Commander in Chief of the Armed Forces under Article II, his power to conduct diplomacy, and his control over classified information as the Nation's organ for foreign affairs.

Funding Limitation and Other Restrictions Related to Naming Certain Military Installations and other Defense Property. The Administration strongly opposes sections 2833, 2834, and 2866, which would limit or undermine the President's ability to name military installations and property. Such a funding prohibition and other naming restrictions would raise separation of powers policy concerns insofar as they severely complicate and constrain the authority of the President as Commander in Chief of the Armed Forces, as well as the Secretary of Defense, to take actions to appropriately and respectfully name military installations based on military contributions.

Joint Counter-small Unmanned Aircraft Systems Office. The Administration strongly opposes section 912, which would modify Joint Counter-small Unmanned Aircraft Systems (C-sUAS) Office reporting relationships, resourcing, responsibilities, as well as Military Service authorities under title 10 of the United States Code. The provision inhibits the Secretary of Defense's authority, delegated by the President and undercuts plans to finalize on-going efforts within DoD's C-sUAS enterprise. The prescriptive nature of section 912 eliminates flexibility for

the Military Services to make independent procurement decisions regarding C-sUAS specific efforts and would likely slow the Department's ability to rapidly acquire, procure, and field capabilities to our warfighters.

Columbia-class Submarine Program. The Administration thanks the committee for including section 122, which provides authority to the Secretary of the Navy to enter into a contract for the procurement of up to five Columbia-class submarines.

Ukraine-Related Provisions. The Administration strongly opposes section 1302 on Ukraine related aid, as this provision extends the Ukraine Security Assistance Initiative and authorizes additional funding. This provision does not advance the President's objectives in the foreign affairs sphere and his diplomatic undertakings. The Administration looks forward to working towards legislation that aligns with the Administration's goals of advancing a peaceful resolution and working with European allies to take responsibility for the continent's security, including accountability for aid and defense necessary to fully secure Ukraine's future.

E-7. The Administration appreciates the Committee's commitment to airborne early warning platforms. Near-term, joint demand for the E-2D Hawkeye has been outstripping supply and the Administration views those aircraft as a cost-effective means to mitigate risk related to its decision to cancel the E-7 program. The Administration strongly opposes authorizing additional funds for the E-7 and supports cancelling the E-7 due to the platform's survivability limitations and significant cost—\$2.6 billion for the first two planes. DoD has made significant investments in space-based targeting and beyond line-of-sight communications, which would subsume a large portion of the E-7 mission.

Limitation on Use of Funds in the National Defense Sealift Fund to Purchase Certain Used Foreign Constructed Vessels. The Administration appreciates section 1012, which authorizes purchases of more than 10 foreign-constructed vessels provided the Secretary of Defense purchases two domestically built vessels for each used vessel purchased after the 10th authorized vessel. The Administration is committed to recapitalizing the strategic sealift fleet in order to preserve readiness while expanding American shipbuilding capacity.

Military Construction (MilCon) Funding. The Administration opposes the realignment in Division B of MilCon funding from priority projects. Contrary to the Administration's fiscally responsible policy to fully fund executable projects, the bill proposes to fund 16 MilCon projects incrementally. This would create an unfunded requirement of almost \$1.4 billion needed to successfully execute these projects over time, diverting required funds to projects that are either inexecutable in FY 2026 or of lower priority than the requested projects.

Fuel Pricing. The Administration opposes the mark in section 4301 based on anticipated savings for favorable bulk fuel rates. Although overall fuel prices have trended downward under the Trump administration, how far fuel rates will decrease below the FY 2026 budget projection is not yet certain. Should the Department see nominal cash gains due to favorable fuel rates, those

funds would be appropriately applied to improve the health of the Defense Working Capital Fund, Defense Logistics Agency Energy account. Sustaining this mark introduces a risk of insolvency to this account.

Limitation on Use of Funds to Limit Collective Bargaining. The Administration opposes section 1110 because this provision would put the Department in an untenable position. It directly undermines the President's authority to manage the Executive Branch and implement national security policy as articulated in Executive Order 14251, entitled "Exclusions From Federal Labor-Management Relations Programs." The funding restriction effectively nullifies the Executive Order, preventing the Department from operationalizing national security-based labor exclusions by prohibiting the Department from using appropriated funds to do so. This hinders the Administration's ability to effectively implement its labor relations strategy.

Removal of Critical Sustainment Oversight. The Administration opposes the elimination of key sustainment statutes contemplated in section 1804 that provide the Administration with oversight authority over Military Service and program sustainment decisions. Sustainment Plans currently required under 10 U.S.C. § 4321, and Sustainment Reviews, currently required under 10 U.S.C. § 4323, ensure that sustainment costs stay low, readiness stays high, and the Administration retains critical defense capabilities through legacy systems awaiting replacement by new programs. Reducing oversight on sustainment does not contribute to faster acquisition; it leads to higher costs and diminished readiness.

Prohibition on the Use of Funds from Carrying Out a Hiring Freeze, Reduction in Force, or Hiring Delay Without Cause at a Public Shipyard. The Administration opposes the language in section 1051, which could raise constitutional concerns as an impediment to the President's supervision and control of the Executive Branch. Further, the provisions are unnecessary, as the Administration is committed to restoring and building out industrial capacity within our public shipyards. If the provision were enacted, it would limit the Administration's ability to optimize efficiencies within the shipyard workforce.

Minimum Inventory Requirement and Prohibition for Retirement of A-10 Aircraft. The Administration opposes section 143, which would mandate a minimum primary mission aircraft inventory of 96 A-10s through October 1, 2026, and prohibit the retirement or preparation for retirement of any A-10 aircraft in FY 2025. This could interfere with the President's ability to optimally exercise his discretion over the military as Commander in Chief of the Armed Forces. The Air Force is accelerating the divestment of all 162 A-10 aircraft by the end of calendar year 2026 to reallocate resources to other modernization programs that align with the Department's strategic objectives.

Limitation on Reductions to Army Prepositioned Stocks—Afloat Program Sealift Capability. The Administration opposes the section 113 concerning the Afloat Army Prepositioned Stocks (APS) equipment packages, because the provision restricts the Secretary of the Army's authorities and disrupts ongoing plans to enhance pre-positioned, land-based capabilities in the Indo-Pacific region. This could interfere with the President's ability to optimally exercise his discretion over the military as Commander in Chief of the Armed Forces.

Global war plans depend upon the Joint Force accessing these force packages. Delaying Secretary of Defense-approved reforms raises risk to the force and to U.S. National Security objectives. The Administration supports the provision's call for "a comprehensive plan for the Army Prepositioned Stock Program through fiscal year 2030," because it aligns with the Army's ongoing, enterprise-wide review of equipment posture, structure, readiness, modernization, sustainment, and governance for power projection, but any delay to the redistribution of "Afloat" APS equipment will disrupt and delay efforts to modernize APS equipment, improve its readiness, and advance the Army's global capabilities, hindering our ability to meet directed global priorities.

Recruit and Retain. The Administration appreciates the House's commitment to supporting President Trump's continued success in recruiting and retaining the best people for our military ranks. The Administration urges inclusion of section 611, the requested bonus and special pay authorities, in the final bill.

Modifications to the Offense of Wrongful Broadcast or Distribution of Intimate Visual Images Under the UCMJ. The Administration supports efforts to address the non-consensual distribution of intimate images. However, the Administration urges the revision of section 552 to eliminate the sections on minors because such conduct is already prohibited by article 134, UCMJ. Including such conduct in this proposed statute will have the unintended consequence of narrowing the types of offenses that can be prosecuted under the UCMJ, making such cases more difficult to prove, including conduct involving identifiable minors within this proposed statute and potentially preventing prosecution of the more appropriate offense of child pornography.

Expedited Access to Certain Military Installations of the DoD for Members of Congress and Certain Congressional Employees. The Administration opposes section 1042, which would require the Secretary of Defense to establish procedures to ensure that a Member of Congress and accompanying congressional employees are granted access to certain DoD installations solely by presenting their congressionally issued identification. The Executive and Legislative Branches negotiate reciprocal access in a manner that adheres to each branch's established secure access controls and distinguished visitor protocols. DoD has no way to electronically verify the validity of congressional identification cards in the way we verify credentials for Executive Branch personnel. Therefore, this provision would introduce significant security risks associated with unverifiable security credentials. Moreover, the provision could raise constitutional concerns to the extent it would infringe on the President's role as Commander in Chief of the Armed Forces under Article II of the Constitution. The Administration urges the committee to instead take advantage of the variety of secure access options DoD offers to Members and staff for access to specific installations.

Cost Accounting Standards. The Administration objects to provisions in section 1824 that would add a senior official from the Government Accountability Office "with substantial experience in contracting and national security acquisitions" to the Cost Accounting Standards (CAS) Board. The Department of Defense representative already brings this expertise and insight; adding third party oversight members who are not responsible for the Defense mission will undermine the effectiveness of the Board's operations. Moreover, the provision raises constitutional concerns because it would place a Legislative Branch employee on a Board

located within the Executive Branch, thereby infringing on the separation of powers. The Administration further objects to authorizing the Secretary of Defense to override the CAS Board's exclusive authority to promulgate CAS, which will create new and unnecessary burdens for contractors that could face different standards if they perform under defense and civilian contracts.

Requirement for Contractors to Provide Reasonable Access to Repair Materials. The Administration appreciates the intent of right to repair language in Section 863 to ensure the Department has the information it needs to conduct maintenance, repair, and overhaul of critical systems. Furthermore, the Department appreciates the opportunity to continue working with the Congress to refine the language. The Administration is committed to partnering with Congress to guarantee that any right to repair requirements included in the FY26 NDAA balance the Department's need for data delivery with preserving the intellectual capital of our industry partners.

Service Academies; Appointments and Additional Appointees. The Administration supports the intent of section 544 as it aligns with the Department of Defense's policy to require merit-based Military Service Academy admissions. However, the administration objects to sections 544(a)(1)(G), 544(b)(1)(F), and 544(c)(1)(G) because they raise separation of powers policy concerns insofar as it would constrain the discretion of the President as Commander in Chief of the Armed Forces, as well as the Secretary of Defense and Military Department to determine the most appropriate criteria and weights to evaluate Service Academy applicants. Mandating specific components of the composite score used to rank applicants undermines long-standing military discretion in admissions and erodes the inherent need to ensure that appointees meet both quantitative and qualitative standards. Qualitative standards are essential to evaluating leadership potential foundational to the development of commissioned officers and cannot be wholly captured by standardized metrics alone.

Codification of Additional Basic Branches of the Army. The Administration opposes section 523, which establishes Electromagnetic Warfare (EW) as a separate basic branch of the U.S. Army. This provision could raise separation of powers policy concerns as an interference with the President's discretion as Commander in Chief and with his authority over the management of the Executive Branch. Decoupling EW from Cyber may create drastic unintended consequences in force generation, capability development, and effective tactical employment of both EW and Cyber, which would put at risk current and future operations in multiple areas of responsibility. The Army's current structure and processes are effectively meeting the demands of the modern battlefield, ensuring that EW professionals are equipped to deliver critical capabilities in support of multi-domain operations. Given the Army's investments, codifying EW as a separate branch will not meaningfully contribute to the Army's pursuit of lethality and could introduce administrative inefficiencies without enhancing the Army's ability to generate and sustain a highly capable EW force.

National Nuclear Security Administration Construction Authorizations. The Administration opposes the bill's lack of authorization for six new construction projects included in the President's 2026 Budget for the Department of Energy's National Nuclear Security Administration. Failure to begin these projects will delay critical investments in capabilities that

will improve nuclear weapons survivability, qualify new weapons components, improve understanding of high-energy density regimes to improve weapons simulation performance, and reduce weapons design timelines.

Automating Selective Service System Registration. The Administration supports section 534, which would automate Selective Service System registration and ensure that men are not penalized for failure to register with Selective Service System. This reform modernizes registration by leveraging existing federal data, increasing efficiency, reducing administrative burdens, and ensuring full compliance with federal law.

Constitutional Concerns. Certain provisions in this bill raise constitutional concerns. They include: constraining the discretion and oversight of the President over the Armed Forces, constraining the President's agenda in diplomacy and foreign affairs, interfering with the President's control over classified information, attempting to restrict the exercise of the executive power of the President or his officers, and controlling the management of the Executive Branch. The Administration looks forward to working with the Congress to address these and other concerns as this legislation advances.
