



**EXECUTIVE OFFICE OF THE PRESIDENT**  
**OFFICE OF MANAGEMENT AND BUDGET**  
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(Senate)

## **STATEMENT OF ADMINISTRATION POLICY**

### **S. 2296 – National Defense Authorization Act for Fiscal Year 2026**

(Sen. Wicker, R-MS)

The Administration appreciates the work of the Senate 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. That said, the Administration has significant policy and constitutional concerns with S. 2296.

The bill would authorize \$32.1 billion over the President's Fiscal Year (FY) 2026 Budget Request for the Department of War, while still failing to fully and immediately fund key programs. The President's Budget Request was carefully crafted and informed by the 2025 Interim National Defense Strategic Guidance (INDSG), which calls on the Department of War to advance three key priorities: (1) re-establish deterrence; (2) rebuild our military; and (3) revive the warrior ethos, while cutting egregious and wasteful spending. Importantly, the President's FY 2026 Budget Request also envisions a paradigm-shifting defense budget that integrates both mandatory and discretionary spending into a single, historic defense topline surpassing \$1 trillion. This bill fails to treat the \$150 billion in mandatory defense funding provided by the One Big Beautiful Bill (P.L. 119-21) as a critical component of the base defense budget and instead adheres to a status quo that has been used against the Administration in the past by authorizing an increase in discretionary appropriations for defense.

The Administration supports promoting our national security through a strong foundation of economic security and has therefore prioritized the rebuilding of the nation's Defense Industrial Base, including our shipbuilding capacity. The President's Budget aims to allocate the nation's resources in a deliberate 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.

S. 2296 also 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 well as controlling immigration. As detailed below, multiple provisions of S. 2296 infringe on the President's role as the Commander in Chief of the Armed Forces, including his ability to implement decisions he deems necessary in the field and directing troop movements. S. 2296 also thwarts the President's ability to oversee foreign affairs and conduct diplomacy effectively and impedes the President's authority to classify and control access to information bearing on national security. Additionally, the bill interferes with the President's control over immigration. Throughout, S. 2296 contains provisions not only intruding into central prerogatives of the Executive Branch, but also impairing it in its performance of its constitutional duties.

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

**Prohibition on the Use of Funds for the United States European Command.** The Administration strongly opposes section 1225, which places a prohibition on the use of funds conditional on a certification and an assessment being sent to congressional defense committees. The Administration also strongly opposes the provisions that place restrictions on the Department of War's authority to manage personnel, staffing, housing and equipment decisions regarding the United States European Command. These restrictions impermissibly limit flexibility and constrain constitutionally granted Executive decision-making authority as Commander in Chief, particularly in pursuing INDSG objectives regarding prioritization of resources and efforts to increase allied burden-sharing. Additionally, this provision interferes with the President's constitutional discretion to prevent disclosure of highly sensitive information.

**Limitation on the Use of Funds for Consolidation, Disestablishment, or Elimination of Geographic Combatant Commands.** The Administration strongly objects to section 919, which would require the Department to submit plans and analysis to Congress 90 days prior to taking actions related to a geographic combatant command of the Department of War. Such a provision would severely complicate and constrain the ability of the President and the Secretary of War to manage the allocation of deployed forces expeditiously in a resource-constrained environment. Moreover, the provision raises significant constitutional questions because it infringes on the President's role as Commander in Chief of the Armed Forces under Article II of the Constitution. We welcome the opportunity to engage with Congress as the Department assesses its global force posture.

**Naming of Certain Military Assets of the Department of War in the Commonwealth of Virginia.** The Administration strongly opposes section 349, which would limit the ability to name assets of the Department of War in the Commonwealth of Virginia. This prohibition would raise separation of powers policy concerns insofar as it severely complicates and constrains the authority of the President, as well as the Secretary of War, to take actions to appropriately and respectfully name military installations based on military contributions.

**Transfer of Responsibility for Countering Small Unmanned Aircraft Systems.** The Administration strongly opposes section 912, which would terminate the Joint Counter-small Unmanned Aircraft Systems (C-sUAS) Office and transfer the functions, assets, and civilian employees to the Office of the Under Secretary for Acquisition and Sustainment. The provision inhibits the Secretary of War's authority, delegated by the President, and undercuts plans to finalize on-going efforts within the Department of War's C-sUAS enterprise. The prescriptive nature of section 912 eliminates flexibility for the 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.

**Commission on the National Defense Strategy.** The Administration strongly opposes section 1063, which would authorize an independent commission in the legislative branch to review the National Defense Strategy (NDS). The work of the NDS Commission would divert substantial resources from the development and delivery of the NDS while providing limited additional oversight value beyond what is already required by statute. The Department provides an annual assessment on the NDS to Congress, which allows Congress to regularly examine the implementation, assumptions, policies, and resourcing informing the continued validity of the NDS.

**Ukraine-related Provisions.** The Administration strongly objects to sections 1223 and 1227, as these provisions extend the Ukraine Security Assistance Initiative and authorize additional funding. Similarly, the Administration objects to section 1224, which requires the creation of a depot-level maintenance plan in conjunction with the Ukrainian government. Furthermore, the Administration strongly objects to section 1228, which usurps the Administration's authority to dictate the terms of its intelligence support to the Ukrainian government. These four provisions do not advance the Administration's objective to end the conflict in Ukraine. 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.

**Duty-free Entries for the Department of War.** The Administration strongly objects to section 874. The Administration has imposed reciprocal tariffs to address the national emergency related to the asymmetries in trade relationships. These asymmetries have created an extreme goods trade deficit and contributed to the atrophy of domestic production capacity, especially that of the U.S. manufacturing and defense-industrial base. This provision would undermine domestic capacity-building efforts by allowing the Department of War to bypass the Administration's tariffs, which were created to address trade imbalances and restore our Nation's atrophied industrial base.

**Limitation on Use of Funds for Reduction or Consolidation of United States Armed Forces Bases in Syria.** The Administration strongly opposes section 1217, which would prohibit the Secretary of War from obligating or expending funds to reduce or consolidate bases of the United States Armed Forces located in Syria until 15 days after the Secretary certifies that certain conditions are met. This provision could present serious constitutional concerns, as it purports to prevent the President from discharging his constitutional authority as Commander in

Chief and in foreign affairs to reduce or consolidate bases in Syria if he deems it necessary or appropriate to do so based on the need to protect U.S. forces, evolving mission requirements, or for other purposes.

**Oversight of United States Military Posture on the Korean Peninsula.** The Administration strongly opposes section 1233, which would prohibit a reduction in U.S. military posture on the Korean Peninsula or a change in wartime operational control over the Combined Forces Command without the Secretary of War certifying it is in the national interest. This provision seeks to limit the President's authority as Commander in Chief regarding prioritization of resources and efforts to increase allied burden-sharing.

**F/A-XX.** The Administration appreciates the Committee's commitment to fielding timely sixth generation fighter aircraft. However, due to industrial base concerns, the Administration strongly opposes developing two sixth-generation programs simultaneously. Awarding the F/A-XX contract as written is likely to delay the higher-priority F-47 program.

**E-7 and E-2D.** The Administration appreciates the Committee's commitment to airborne early warning platforms. Near-term, joint demand for the E-2D Hawkeye is outstripping supply. To solve this near-term problem, with a plane already in production, the Administration intends to fund four additional E-2D aircraft. The Administration views those aircraft as cost-effective risk mitigations related to its decision to cancel the E-7 program. The Administration strongly opposes adding funds for E-7 and supports cancelling the E-7 due to the platform's survivability and significant cost—\$2.6 billion for the first two planes. The Department of War 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.

**Support for Counterdrug Activities and Activities to Counter Transnational Organized Crime.** The Administration strongly opposes the proposed insertion of subsection (i), section 1033, Rule of Construction Regarding Use of Authority for Immigration Enforcement. This would hinder the Administration's ability to provide detention support to the Department of Homeland Security. The Department of War currently makes a general determination in reliance on representations made by the supported law enforcement agency about this nexus for those transferred to such facilities. Requiring individual level, "independent" verification by the Secretary of War would hinder the President's execution of statutory authorities to remove illegal aliens from the United States. It could also raise constitutional concerns because the President has important foreign relations responsibilities, including managing matters related to terrorism and immigration.

**Instructions for Continued Operational Readiness, or "Right-to-Repair".** The Administration appreciates the requirement in section 836 for contractors to include right to repair provisions in contracts or agreements that allow the Department of War to conduct maintenance and access the appropriate maintenance tools, software, and technical data while preserving the intellectual capital of industry partners. The Administration supports the intent of section 836 to ensure the Department has the information it needs to conduct maintenance, repair, and overhaul of critical systems and appreciates the opportunity to continue working with the Senate to refine the language. The Administration is committed to partnering with Congress

to guarantee that any right to repair requirements included in the FY 2026 NDAA balance the Department's need for data with preserving the intellectual capital of our industry partners.

**Medical Malpractice Claims by Members of the Uniformed Services.** The Administration strongly opposes section 714, which significantly alters the Department of War's medical malpractice claim process. The Department of War's process is designed to do the right thing for Service members through a non-adversarial and efficient process and ensure they are appropriately compensated for injuries caused by medical malpractice; there is no incentive in the process to deny claims to save money. An adversarial process may require Service members to get legal counsel, adding both costs and delays for them. The Defense Health Agency already operates a robust and independent appeal process with U.S. government personnel, not contractors, making decisions on claims. It could also raise questions as an impairment the President's exercise of his discretion over the Executive Branch.

**Columbia-class Submarine Program.** The Administration thanks the committee for including section 121, which provides procurement authority to the Secretary of the Navy to enter one or more contracts for the procurement of up to five Columbia-class submarines. However, the Navy requires this provision to also include three-year incremental funding authority for each Columbia-class submarine. The Budget assumes the FY 2026 submarine would be funded over a three-year-period. Without this authority, the Navy will not have sufficient funding for the program. We strongly encourage the Congress to adopt the request.

**Prohibition on the Use of Funds to Reduce the Workforce at Public Shipyards.** The Administration opposes the language in section 1108, 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.

**Prohibition on Retirement of A-10 Aircraft and Extension of Limitations and Minimum Inventory Requirement for RQ-4 Aircraft.** The Administration opposes section 137, which would mandate a minimum inventory of 103 A-10s. 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-10s by the end of calendar year 2026 to reallocate resources to modernization programs that align with the Department's strategic objectives. The Administration also opposes section 138, which would extend the prohibition on retiring RQ-4s until 2030. The Air Force previously planned to divest the RQ-4 in FY 2027, but anticipates extended funding of the RQ-4 fleet until the end of FY 2029.

**Modification to Initial Operational Capability Dates.** The Administration opposes section 1511(a) and the portion of section 1517 that would modify Initial Operational Capability (IOC) dates for the Sentinel Intercontinental Ballistic Missile and the Sea-Launched Cruise Missile. The Department is committed to deliver deterrent capability as soon as feasible and is actively assessing opportunities to accelerate where possible. However, the Administration believes it is important that the President be able to exercise his ultimate discretion to determine the appropriate IOC dates as Commander in Chief. Additionally, prescribing accelerated IOC

dates without sufficient feasibility assessments has the potential to add acquisition risk and undermine program execution and overall success. Separately, the Administration appreciates and supports the additional authorities outlined in section 1517 related to the Sea-Launched Cruise Missile program.

**Organization and Authorities of Assistant Secretaries of War.** The Administration opposes section 908, which would establish a new Assistant Secretary of War (ASW) for International Armaments Cooperation and eliminate the ASW for Readiness. This action would ignore the inextricable link between the domestic industrial base and its international counterparts, add layers of bureaucracy, slow outcomes, and muddle clarity for Allies and partners seeking cooperation with the U.S. and our industrial base. Moreover, the elimination of the ASW for Readiness jeopardizes the joint, data-driven perspective on the capacity of the Total Force to execute defense strategy and conduct warfare. Additionally, removing the readiness function from the Under Secretary of War for Personnel and Readiness severs key linkages between manpower and reserve issues and the overall readiness of the Total Force.

**Department of War Sensitive Activities.** The Administration opposes section 1056, which would require the Department of War to notify Congress of a compromise or failure of any Department of War sensitive activity not later than 48 hours following such compromise or failure. The Department of War is committed to keeping the congressional defense committees fully and currently informed, but the provision offers no reasonable limitation on the scope, scale, or significance of a reportable compromise or failure. Furthermore, the provision erroneously presupposes that Department of War leadership or other Executive Branch officials would have notice or the requisite facts of any compromise or failure to provide the required notification by the 48-hour deadline. As currently drafted, this provision interferes with the Presidential constitutional control over classified information.

**Authority to Purchase Used Vessels Under the National Defense Sealift Fund.** The Administration appreciates the authority included in section 1012 to purchase two additional used ships for the recapitalization of the nation's sealift fleet. However, the Administration urges Congress to provide the Secretary of War with discretionary authority to purchase new American-built sealift vessels to meet the rate of planned phase-outs in the sealift fleet. While purchasing used commercial vessels is the most cost effective and expeditious near-term solution to recapitalize the fleet, the Administration remains focused on the broader goal of restoring America's Maritime Dominance through the expansion of 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 36 MilCon projects incrementally. This would effectively create an unfunded obligation of almost \$3.7 billion needed to successfully execute these projects over time and would divert those funds to projects that are either inexecutable in FY 2026 or of lower priority than the requested projects.

**Simultaneous Conflict Munitions Report.** The Administration opposes section 864, which would require a detailed report on the demand for munitions across multiple contingency plans. The information that would be needed to compile this report is highly classified and its

disclosure could provide adversaries with insights into the United States' contingency plans, specific operations envisioned within those plans, insights into weapons deployment and distribution, and information regarding the defense industrial base. This provision also interferes with the Presidential control over classified information, which he has under the Constitution, both as Commander-in-Chief and as the Nation's organ for foreign affairs.

**International Security Cooperation Program Funds to be Available for USEUCOM.** The Administration opposes section 1229, which would require greater than eight times the level of security cooperation resourcing in FY 2027 than the Department intends for FY 2026. The Administration opposes section 1229's limitation on the ability to realign resources and personnel in the USEUCOM AOR. This provision would impose a significant change to Department policy. Moreover, this provision could interfere with the President's constitutional discretion in foreign affairs and as Commander in Chief.

**Fuel Pricing.** The Administration has concerns with the premature reduction in section 4201 based on anticipated savings for favorable bulk fuel rates. Although overall fuel prices have trended downward under the Trump Administration, the total decrease of fuel rates 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 unwise cut introduces a risk of insolvency to this account.

**Limitation on Modification of Certain Electromagnetic Spectrum Relied on by the Department of War.** The Administration opposes section 1564, which prohibits the modification of the electromagnetic spectrum between 3100 and 3450 megahertz and between 7400 and 8400 megahertz unless the Secretary and the Chairman of the Joint Chiefs of Staff jointly certify. The certification would hinder the President's executive authority.

**Excessive Limitations on Availability of Funds Related to Reporting Requirements.** The Administration opposes the excessive use of limitations (sections 215, 906, 1055, 1234, 1514, 1516, 1519, 1539, 1540, 1610A, 1617, 1618, and 1619) on the availability of the Department's funds, in particular the Operation and Maintenance, Defense-wide account, for the purposes of compelling the submission of overdue reports to Congress. Such requirements compromise the ability of the Secretary and Deputy Secretary and their staffs to fulfill their duties and responsibilities. The Department strives to meet its legal responsibilities in a timely fashion, but this is hampered by the exponential increase in reporting requirements in recent years, and these could pose a constitutional problem by impairing the President's ability to discharge his duties. Additionally, section 1055 interferes with the President's constitutional discretion to prevent disclosure of highly sensitive information.

**Facilities Sustainment, Restoration, and Modernization (FSRM).** The Administration opposes the proposed realignment of FSRM funding from Division A – Operations and Maintenance (O&M) – to Division B – MilCon. This shift would fundamentally alter the program's structure and compromise the Department's agility in addressing urgent sustainment and repair needs across the force. O&M funding is essential for maintaining operational readiness, allowing installations to rapidly respond to facility degradation and urgent life, health,

and safety requirements. Transitioning FSRM resources to MilCon would hinder Commanders' ability to swiftly meet evolving facility demands, ultimately degrading readiness at the installation level. Furthermore, the current delineation between FSRM and MilCon funding ensures appropriate oversight and prioritization based on operational urgency and strategic value.

**Recruit and Retain.** The Administration appreciates the Senate's commitment to supporting President Trump's continued success in recruiting and retaining the best people for our military ranks. The Administration urges support of the requested bonus and special pay authorities.

**Significant Foreign Policy Concerns.** The Administration strongly opposes sections 1205 and 1235, which require the Secretary of War to consult with the Secretary of State before he engages in certain U.S. foreign policy objectives. These provisions could raise constitutional concerns insofar as they interfere with the President's constitutional discretion in foreign affairs and as Commander in Chief. They also interfere with the President's management of the Executive Branch. The Administration is also concerned that sections such as 1204, 1206, 1208, 1237, and 1242 are duplicative of existing State authorities.

**Requirement to Update the National Disclosure Policy.** The Administration strongly opposes section 1258, which establishes several onerous and unfunded requirements on the National Disclosure Policy Committee (NDPC), the body established by the Secretary of War and the Secretary of State, including annual assessments, reports, and mandatory consultations with foreign partners and industry that will undoubtedly slow the NDPC's ability to actually process requests and will impair the Executive's ability to discharge its duties.

**Changes to the Authorities of the Missile Defense Agency (MDA) Director.** The Administration opposes section 1536, which would make the MDA Director the technical authority for controlling "system level architectures" for missile defense. Given the important role that the Direct Reporting Program Manager (DRPM) will play in managing the Golden Dome next-generation missile defense effort, the Administration opposes language that could de-emphasize the DRPM's role in managing the Department's system-level approach to the missile defense of the homeland.

**Limitation on Compensation Caps.** The Administration strongly opposes section 1521, the prohibition on establishing a cap on reimbursement of compensation and benefits for federally funded research and development center (FFRDC) employees. Limiting the federally funded pay of these employees to be no more than that of the President of the United States, as proposed in the FY 2026 Budget, is not only reasonable but necessary in light of the egregious compensation levels of some executives. Departments and agencies must be able to establish suitable reimbursement caps to ensure the efficient use of taxpayer dollars, regardless of the activities that contractors perform, and such caps would not preclude the parent companies of FFRDCs from providing additional compensation.

**Department of Energy Nuclear Weapons Provisions.** The Administration objects to sections 1515 and 3113, which would undermine the authority of the Secretary of Energy to manage the National Nuclear Security Administration (NNSA). While the Administration strongly endorses collaboration between the Department of Energy and the Department of War in nuclear



deterrence-related activities, giving the Department of War governance over NNSA employees and requiring NNSA to establish duplicative positions would result in inefficiency and delay to critical nuclear modernization programs.

**Notice of Removal of Judge Advocates General.** The Administration opposes Section 502, which would require the Secretary of War to submit notice and reasoning five days prior to the removal of the Army, Navy, or Air Force Judge Advocate General if removed before the end of their term. The five-day notice period is inconsistent with the President's role as Commander in Chief of the Armed Forces under Article II of the Constitution and Title 10 section 3037, which recognizes the President's executive authority to remove a TJAG at any time.

**Constitutional Concerns.** As detailed above, multiple provisions in this bill raise serious constitutional concerns. They include: constraining the discretion and oversight of the President over the Armed Forces and immigration policy, 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 structure and makeup of the Executive Branch.

The Administration looks forward to working with the Congress to resolve these and other issues as this legislation advances.

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