

Conference Report on FY 2019 NDAA: Major Nuclear Provisions

Topline

	President's Request	House Approved	Senate Approved	Conference Report
Department of Defense base budget	\$617.1 billion	\$616.7 billion	\$617.6 billion	\$616.9 billion
Atomic Energy Defense Programs	\$21.6 billion	\$22.1 billion	\$21.6 billion	\$21.9 billion
Overseas Contingency Operations	\$69 billion	\$69 billion	\$68.5 billion	\$69 billion
Other Spending	\$8.3 billion	\$9.2 billion	\$8.2 billion	\$8.9 billion
Total	\$716.0 billion	\$717.0 billion	\$715.9 billion	\$717.0 billion

Treaties

1. Intermediate-Range Nuclear Forces (INF) Treaty

A. House: Section 1233: Fences a portion of DOD funding for White House support services until the implementation of previously congressionally-mandated sanctions for Russia's violating the Intermediate Nuclear Forces (INF) Treaty, and until a previously required plan for additional sanctions is submitted to Congress. Makes a statement of policy that Russia's violations of the INF Treaty constitute material breach, and therefore the United States is legally entitled to suspend operation of the treaty so long as Russia remains in material breach.

Senate: No similar provision.

Conference: Section 1244: Sense of the Congress that Russia's violations of the INF Treaty constitute material breach, and the U.S. is legally entitled to suspend operation of the treaty so long as Russia remains in material breach. Requires a certification that the President has complied with prior NDAA requirements that the President impose sanctions on Russia for its violations of the INF Treaty and submits to Congress a plan for additional sanctions. No fencing of funding.

B. House: Section 1239: Declares that the INF Treaty is no longer binding to the United States after one year of enactment unless the President certifies that Russia has returned to compliance.

Senate: No similar provisions.

Conference: Section 1243: Drops the House provision, but mandates a Presidential determination whether Russia is in material breach of the INF Treaty, and whether the

prohibitions on testing and deploying systems that would violate the treaty remain binding on the U.S.

2. *Open Skies Treaty*

A. House: Section 1232: Fences funding for upgrading U.S. Open Skies Treaty sensors and procuring new aircraft used to conduct U.S. verification flights over Russia until Congress receives a Presidential certification that he has imposed treaty violation responses. Also prohibits the U.S. from approving any upgrades to American or Russian sensors unless the President certifies that such a move would not be harmful to U.S. national security and that Russia is in compliance with the treaty.

Senate: Section 1648: Fences funding for upgrading U.S. Open Skies Treaty sensors and procuring new aircraft used to conduct U.S. verification flights over Russia until the President certifies that he has imposed treaty violation responses and legal countermeasures on Russia for its violation of the Open Skies treaty, and the Secretary of Defense certifies that modification of the existing U.S. sensors will provide digital imagery that is superior to digital imagery available to the DOD commercially.

Conference: Section 1242: Adopts House provision. Also authorizes funding for two new aircraft for Open Skies Treaty verification, which the House bill had cut.

3. *New START Treaty*

A. House: Section 1240: Bars spending to extend New START unless the President certifies that he has raised the issue of new Russian nuclear weapons to the Russians directly and the Russians have responded in writing as to whether they will declare the weapons pursuant to the Treaty.

Senate: No similar provision.

Conference: Section 1245: Eliminates the spending limitations but requires the President to report on whether he raised with Russia the question of Russian new nuclear weapons as they relate to New START.

B. House: Committee Report***: Requires a report explaining why New START is in the national security interests of the United States.

Senate: No similar provision.

Nuclear Weapons

1. Life Extension Program (LEP) and Major Alteration Funding for nuclear warheads, in thousands of dollars

	House	Senate	Conference
B61-12	\$794,049	\$794,049	\$794,049
W76-1	\$48,888	\$48,888	\$48,888
W88 Alt 370	\$304,285	\$304,285	\$304,285
W80-4	\$654,766	\$654,766	\$654,766
IW-1	\$53,000	\$53,000	\$53,000
W76-2 (low-yield warhead modification for submarine-launched ballistic missiles)	\$65,000	\$65,000	\$65,000

2. Selected Nuclear Delivery Platform Funding, in thousands of dollars

	House	Senate	Conference
Ground Based Strategic Deterrent (GBSD)	\$414,441	\$414,441	\$414,441
Long Range Standoff Weapon (LRSO)	\$699,920	\$699,920	\$699,920
Trident II Ballistic Missile Modifications	\$1,078,750	\$1,078,750	\$1,078,750
Long Range Strike Bomber*	\$2,314,196	\$2,314,196	\$2,314,196

*Long range strike bomber will serve both conventional and nuclear missions

3. Low-Yield Warhead Modification

A. House: Section 3114: Authorizes \$65 million for the modification of a low-yield nuclear warhead for use on submarine-launched ballistic missiles. This section also repeals a prohibition on developing and producing low-yield nuclear warheads absent congressional authorization, and authorizes the Secretary of Energy to carry out the low-yield warhead modification or development process.

Senate: Section 3117: Repeals a prohibition on developing and producing low-yield nuclear warheads absent congressional authorization, but requires the Secretary of Energy to specifically request funding for the development of such weapons. Authorizes \$65 million for the modification of the low-yield warhead under the W76-2 warhead modification program.

Conference: Section 3111: Authorizes \$65 million for the warhead and repeals the 15-year prohibition on developing and producing low-yield nuclear warheads absent congressional

authorization, but requires congressional authorization of appropriations to develop or modify nuclear warheads.

4. W78 Replacement Program (IW-1)

A. House: Committee Report***: Requests report by NNSA Administrator and Chairman of the Nuclear Weapons Council on status of W78 replacement, also referred to as the Interoperable Warhead (IW-1) program.

Senate: No similar provision.

General Nuclear

1. Nuclear Posture

A. House: Section 1647: Requires an independent report on the risks and benefits of changing the U.S. nuclear weapons launch-under-attack posture.

Senate: No similar provision.

Conference: Section 1669: Requires an independent study on options to increase presidential decision-time to employ each leg of the nuclear triad, including the potential benefits and risks of such options.

2. Plutonium Pit Production

A. House: Section 3120A: Requires an independent assessment of the plutonium strategy of the National Nuclear Security Administration (NNSA), including an analysis of the strategy considered for manufacturing up to 80 pits per year at Los Alamos. Requires the Secretary of Energy to submit to the congressional defense committees a report on the plan for producing plutonium pits 31-80 at Los Alamos, in case the MOX facility is not producing pits by 2030. Also requires an updated Statement of Mission Need on the final plan for national pit production.

Senate: Committee Report***: Requests an independent review of the NNSA's April 2018 engineering assessment report on plutonium pit production, which recommended repurposing the Mixed-Oxide Fuel (MOX) fabrication facility to be used for plutonium pit production. The review will assess the soundness of the estimated construction and life-cycle costs of each of the alternative plans for plutonium pit production analyzed in the NNSA's April 2018 report.

Conference: Section 3120: Adopts House provision with amendments. Strikes requirement for an updated Statement of Mission Need. The report required in this section replaces the report required by the Senate Armed Services Committee Report.

B. House: Committee Report***: Requests a report on the rationale for the Nuclear Posture Review recommendation to change the annual plutonium pit requirement to "at least 80 pits" from a previous requirement of "50-80 pits." Also requests a study on the potential to re-use existing plutonium pits.

Senate: No similar provision.

3. B83 Nuclear Bomb

A. House: Committee Report***: Requests a report on the military requirements, and cost/life extension implications of retaining the megaton-range B83 bomb that had been slated for retirement.

Senate: No similar provision.

4. Intercontinental Ballistic Missiles (ICBMs)

A. House: Section 1645: Prohibits the Department of Defense from reducing the number of Intercontinental Ballistic Missiles (ICBMs), or reducing their level of alert for a nuclear launch.

Senate: No similar provision.

Conference: Section 1665: Adopts House provision.

5. Ground-Based Strategic Deterrent (GBSD)

A. House: Section 1643: Requires development and implementation of a plan to accelerate the acquisition of the Ground-Based Strategic Deterrent (GBSD). Authorizes \$69.4 million above the Administration's request to speed up GBSD acquisition.

Senate: No similar provision, but also authorizes \$69.4 million above the Administration's request to speed up GBSD acquisition.

Conference: Section 1663: Adopts House provision and maintains funding increase of \$69.4 million.

B. House: Section 1646: Prohibits funding for retaining the option for or developing a mobile variant of the GBSD through FY 2020.

Senate: No similar provision.

Conference: Section 1666: Adopts House provision.

6. Long Range Standoff Weapon (LRSO)

A. House: Section 1643: Requires development and implementation of a plan to accelerate the acquisition of the Long-Range Stand-Off (LRSO) weapon. Authorizes \$85 million above the Administration's request to speed up LRSO acquisition.

Senate: No similar provision, but also authorizes \$85 million above the Administration's request to speed up LRSO acquisition.

Conference: Section 1663: Adopts House provision and maintains funding increase of \$85 million.

B. House: Section 1642: Drops the congressional requirement that had prevented the Air Force from retiring the conventional air-launched cruise missile, and mandates that a conventional LRSO **achieve initial operating capability** within **four** years of the nuclear-armed LRSO.

Senate: Section 1642: Drops the congressional requirement that had prevented the Air Force from retiring the conventional air-launched cruise missile, and mandates that the Air Force **begin procurement and fielding** of a conventional LRSO within **five** years of the nuclear-armed LRSO.

Conference: Section 1662: Drops the congressional requirement that had prevented the Air Force from retiring the conventional air-launched cruise missile, and mandates that a conventional LRSO **achieve initial operating capability** within **five** years of the nuclear-armed LRSO.

Missile Defense

1. Ground-based Midcourse Defense (United States Homeland Defense)

A. House: Section 1661: Directs the Director of the Missile Defense Agency (MDA) to complete a plan and initiate development of a space-based missile defense sensor architecture. Limits expenditure of funds to initiate the program to 25 percent of the total authorized amount until the plan is submitted to Congress.

Senate: Section 1660C: Directs the Director of the MDA to initiate development of a space-based missile defense sensor architecture by December 31, 2018, to be deployed no later than December 31, 2022.

Conference: Section 1675: Adopts House provision with an amendment reducing the funding limitation to 15 percent (i.e., 85 percent of the authorized funds can be expended before the plan is submitted to Congress).

B. House: Section 1665: Requires a successful test of the Redesigned Kill Vehicle (RKV) before a lot production decision can be made. Provides a waiver for the Secretary of Defense.

Senate: Section 1657: Gives the sense of the Senate that the RKV should be demonstrated in a successful, operationally realistic flight test prior to its operational deployment.

Conference: Section 1683: Adopts House provision with an amendment that would require a report that assesses the risks and benefits of accelerating RKVs at Fort Greely, Alaska.

C. House: Section 1669: Requires the director of the MDA to continue development for the Homeland defense radar in Hawaii to deliver an operational capability in fiscal year 2023.

Senate: No similar provision.

Conference: Section 1687: Adopts House provision with an amendment that would require monthly updates if the MDA Director is unable to award the contract for the radar by the end of 2018.

D. House: Section 1671: Requires a Congressional Budget Office report on costs relating to ballistic, cruise, and hypersonic defenses of the United States, including any new recommendations contained in the Ballistic Missile Defense Review.

Senate: No similar provision.

Conference: Section 1690: Adopts House provision.

E. House: Section 1673: Requires an MDA report on the status of the countermeasures test program. The report shall include an evaluation and response to the 2010 JASON report entitled “MDA Discrimination.”

Senate: Section 1660B: Gives the sense of the Senate that prioritizing discrimination capabilities to improve missile defense is critically important. Requires an MDA report on the improvements to discrimination required within missile defense architecture and the MDA’s plan to rapidly field advanced discrimination capabilities.

Conference: Conferees direct the Director of MDA to deliver both reports described in the House and Senate provisions.

F. Senate: Section 1657: Directs the Director of the MDA to submit a report on ways the MDA can accelerate the construction of Missile Field 4 at Fort Greely, Alaska, and the deployment of 20 ground-based interceptors with Redesigned Kill Vehicles at that missile field, by at least one year. The report will include a cost-benefit analysis and feasibility assessment for construction of a fifth missile field at Fort Greely, Alaska.

House: No similar provision.

Conference: Section 1683: Adopts Senate provision requiring a report on the risks and benefits of accelerating construction of Missile Field 4 and deployment of RKVs at Fort Greely, Alaska.

2. Boost-Phase Intercept

A. House: Section 1662: Requires the director of the MDA to establish a boost-phase intercept program using **kinetic** interceptors, and requires an independent assessment of a concept proposal for this capability.

Senate: No similar provision, but authorizes \$80 million above the Administration’s request for boost phase intercept **laser** R&D.

Conference: Section 1676: Adopts House provision. Authorizes \$50 million above Administration request for **laser** R&D.

B. Senate: Section 1660D: Requires the Director of the Missile Defense Agency to develop a plan to develop a space-based ballistic missile intercept layer notwithstanding the outcome of the Missile Defense Review. Provision disassociates the space-based ballistic missile intercept layer program from the Missile Defense Review.

House: No similar provision.

Conference: Section 1680: Adopts Senate provision.

3. *Missile Defense Test Schedule*

A. House: Section 1663: Requires the MDA to provide unclassified information relating to the schedule for planned missile defense tests (fiscal year and quarter).

Senate: No similar provision.

Conference: Section 1681: Adopts House provision.

4. *Hypersonic Missile Defense*

A. Senate: Section 1659: Directs the Director of the MDA to accelerate the hypersonic missile defense program, to be deployed in conjunction with a persistent space-based missile defense sensor program. Also requires a report on how hypersonic missile defense can be accelerated, and an estimate of the cost of acceleration.

House: No similar provision.

Conference: Section 1689: Adopts Senate provision.

MOX (Mixed Oxide Fuel)

A. House: Section 3115: Allows the Secretary of Energy to close the MOX Facility by certifying that a preferable alternative option exists for plutonium disposition. The alternative must have an estimated lifecycle cost of less than approximately half of the estimated remaining lifecycle cost of the MOX fuel program.

Senate: Section 3115: Prohibits the use of DOE funding to terminate construction of the MOX facility or to convert MOX facility for use other than its original mission.

Conference: Section 3119: Adopts House provision.

B. Senate: Committee Report***: Requires an independent review of the National Nuclear Security Administration (NNSA)'s April 2018 engineering assessment report on plutonium pit production, which recommended repurposing the Mixed-Oxide Fuel (MOX) fabrication facility to be used for plutonium pit production. The review will assess the soundness of the estimated construction and life-cycle costs of each of the alternative plans for plutonium pit production analyzed in the NNSA's April 2018 report.

Conference: Section 3120: Requires an independent assessment of the plutonium strategy of the National Nuclear Security Administration (NNSA), including an analysis of the strategy considered for manufacturing up to 80 pits per year at Los Alamos. This assessment replaces the review directed in the Senate Committee Report.

Nonproliferation

1. Nonproliferation Budgets (in thousands of dollars; bold = lower)

Program	House	Senate	Conference
International Nuclear Security	\$46,339	\$46,339	\$46,339
Radiological Security (Domestic + International)	\$150,340	\$150,340	\$150,340
Nuclear Smuggling Detection and Deterrence	\$140,429	\$140,429	\$130,429
Nuclear Material Removal	\$32,925	\$32,925	\$32,925
Nonproliferation and Arms Control	\$129,703	\$129,703	\$129,703
Defense Nuclear Nonproliferation R&D	\$468,095	\$456,095	\$468,095
Low Enriched Uranium R&D for Naval Reactors	\$10,000	\$0	\$10,000

2. HEU to LEU Reactors

A. House: Section 3117: Authorizes \$10 million for feasibility work on low-enriched uranium naval reactor fuel.

Senate: No similar provision.

Conference: Section 3123: Adopts House provision.

3. Nonproliferation cooperation with Russia

A. House: Section 3116: Bars any funds to be used for nonproliferation cooperation with Russia unless the Secretary of Energy submits in writing that a nuclear-related emergency in Russia must be addressed urgently.

Senate: No similar provision.

Conference: Section 3122: Adopts House provision.

Other significant provisions

Cruise Missile Defense (Section 112): Requires DOD certify the Army need prior to deployment of a cruise missile defense capability.

Missile defense testing failures (Section 1692): Eliminated a Senate provision stating that tests carried out by the Missile Defense Agency (MDA) that do not achieve their main intended objectives should not be considered failures.

National Nuclear Security Administration independence (no section listed): Drops Senate provision that would have made NNSA more independent from the Department of Energy and weakened health and safety oversight.

Costs of nuclear weapons modernization (Section 1670): Extends the required annual report on the 10-year funding profile of the Department of Defense's nuclear weapons modernization plans (established in the FY12 NDAA) through FY 2023.

Blood Irradiation Devices (Section 3141): Establishes the goal of eliminating the use of blood irradiation devices in the United States that rely on cesium chloride by December 31, 2027 and requires the NNSA Administrator to submit a report on the disposal pathway for cesium chloride sources.

**** These are Items of Special Interest that were included in the Armed Services committee reports. Items of Special Interest that direct an individual or organization to deliver a specific report (directive ISIs) are not legally binding, but DOD generally regards directive ISIs as congressional mandates and responds accordingly.*