

SPECIAL REPORT

No. 269 | MARCH 22, 2023

# NDAA 2024: Increasing the Readiness of the U.S. Military

Edited by Maiya Clark

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CENTER FOR NATIONAL DEFENSE

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This paper, in its entirety, can be found at <http://report.heritage.org/sr269>

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# NDAA 2024: Increasing the Readiness of the U.S. Military

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**T**he 2024 NDAA can play a critical role in helping the U.S. Armed Forces continue their transformations to deter great-power aggression and win the nation's wars. This NDAA can have tremendous signaling power to China, Russia, and other potential aggressors in the world. Issues such as military recruitment, shipbuilding and ship maintenance, and nuclear enterprise investment impact national defense today and will continue to impact readiness for decades. The time Congress spends deliberating these issues now is time well spent.

The National Defense Authorization Act (NDAA) and the defense appropriations bill function as Congress's yearly shaping mechanism for the Department of Defense (DOD). Because it is one of the few authorization bills reliably passed every year, the NDAA assumes oversized importance for both Congress and the DOD. In an increasingly threatening global security environment—in which the People's Republic of China, the Russian Federation, Iran, and North Korea are actively challenging U.S. interests—the NDAA gains even more importance. Congress should use the NDAA to help the DOD continue to transform to a force able to deter adversaries while ensuring that the nation spends its defense dollars wisely.

The American Armed Forces of 2023 are highly capable, but their shortcomings compared to security challenges are increasingly apparent. The Heritage Foundation's 2023 *Index of U.S. Military Strength* downgraded the U.S. military, rating it as “weak” for the first time in its nine-year history: “This is the logical consequence of years of sustained use, underfunding, poorly defined priorities, wildly shifting security policies, exceedingly poor discipline in program execution, and a profound lack of seriousness across the national security establishment even as threats to U.S. interests have surged.”<sup>1</sup>

The freedoms Americans hold dear are possible only with a strong national defense, which requires investment in key capabilities. The Navy needs more ships—and a new Naval Act procuring those ships in a cost-effective manner—to counter China’s rapidly growing naval fleet. The Air Force needs more F-35s, and it needs more pilots (with more training flight hours) to fly them. The Army needs to accelerate its modernization—and improve its recruiting—to compete in the modern era. Infrastructure across the military, from Army ammunition plants to Navy shipyards, is decades out of date and requires major capital improvement. Without these investments, the U.S. military will continue to weaken at the very same time that China’s military grows stronger.

As the ongoing war in Ukraine reveals, the United States does not have the luxury of ignoring hard military power. Russia’s protracted war of aggression in Ukraine is demonstrating to the world the continued importance of military assets and their readiness. America should have the capability to protect U.S. interests on short notice and in multiple theaters simultaneously. All this raises the stakes for lawmakers tasked with crafting and passing the yearly NDAA.

## **Fiscal Year 2023—A Mixed Bag**

Fiscal year (FY) 2023 started on October 1, 2022, but appropriations were not passed until December 29. The federal government operated under a continuing resolution in the intervening weeks, delaying implementation of the FY 2023 budget for nearly three months of the fiscal year—leading to costly setbacks and constraints throughout the DOD.<sup>2</sup> Defense authorization and appropriation negotiations were delayed when the Biden Administration once again delivered its budget request nearly two months late in violation of federal law.<sup>3</sup> This was further exacerbated by Senate Majority Leader Chuck Schumer’s (D-NY) refusal last year to bring the annual bipartisan defense bill to the Senate floor in a timely manner. The Senate majority’s decision to not pass its own version of the NDAA forestalled the ability of the two chambers to form a conference committee wherein the differences between the two bills could be negotiated and consensus legislation produced. It was the second year in a row that an NDAA conference committee was not formed, and it further aggregated power into the hands of a few Members and Senators in leadership positions at the expense of rank-and-file committee members and the rest of Congress. All these delays contributed to uncertainty and management challenges at the DOD—problems that will impact the DOD throughout this fiscal year.

Inflation continues to take its toll on the American people and the Armed Forces. Rising fuel prices and increased labor costs impacted the DOD and its hundreds of thousands of contractors. All told, the FY 2023 NDAA included \$18.9 billion for inflation impacts, including \$2.5 billion for inflation impacts on DOD fuel purchases alone.<sup>4</sup>

Further adding to the challenging fiscal picture of the country—and consequently of the DOD—is the federal government’s continuing debt binge. Not only is total outstanding public debt on the rise, but its rise is accelerating. In the past five years alone, the federal government added nearly \$11 trillion to the total outstanding public debt.<sup>5</sup> The federal government’s total outstanding public debt is now over \$31 trillion. This heavy debt burden will impact the future resources that are available to defend the nation. With rising interest rates, the debt burden will become heavier within the federal budget, further squeezing other priorities, including national defense.

FY 2023 has, like in years past, been filled with uncertainty and fiscal challenges that make the defense budget picture murkier. It is not a good foundation to begin deliberations for FY 2024.

## Looking Forward: Defense Dollars for FY 2024

The NDAA for FY 2023 once again authorized more dollars than were requested by the Biden Administration, providing a solid foundation for addressing important needs of the U.S. Armed Forces. The FY 2023 NDAA topline was \$847.3 billion, including the expenditures in the Department of Energy for the maintenance of the nuclear arsenal.

Any large organization will, by its nature, have waste and inefficiencies, and the DOD is no exception. The Heritage Foundation identified some opportunities for savings in its *Blueprint for Balance*. Heritage will continue identifying such opportunities, including in this paper. Toward that end, Heritage partnered with the American Enterprise Institute to conduct a seminar on February 23–24, 2023, with experts and concerned parties that identified areas in the defense budget that are wasteful or inefficient or could be re-allocated to higher priority warfighting programs. The results of that seminar are available to interested parties.

To adequately prepare for the challenges ahead, Heritage recommends continued investment in the defense budget from FY 2023 to FY 2024 in conjunction with cuts to non-defense discretionary spending, which has increased at a faster rate than defense spending in recent years. Inflation is eroding the DOD’s purchasing power, and any future defense budget will have to account for inflation.

Russia's war of aggression against Ukraine will influence the defense budget in the coming fiscal year. Since Russia invaded Ukraine on February 24, 2022, the United States has committed more than \$24.2 billion in military aid to Ukraine. This aid has been funded by almost \$28 billion in supplemental appropriations. Presidential drawdowns,<sup>6</sup> employed to keep Ukraine in the fight and check Russian territorial ambitions, have depleted U.S. weapons stocks to a degree that raises questions about the sufficiency of U.S. munitions stockpiles. Congress will have to reckon with its own preparedness for protracted war in its defense spending negotiations for FY 2024.

Congress should also exercise its oversight function to shield the military from divisive social engineering efforts, such as incorporating race essentialism in the military academia curricula. It should stop the Pentagon from over-investing in extraneous social programs, such as those proposing to reduce carbon emissions, to the detriment of other warfighting missions. U.S. national security is too important for lawmakers to allow precious DOD resources to be applied to social engineering programs.

Senior uniformed officers in each service annually submit an Unfunded Priorities List. These lists should be subject to the normal House and Senate Armed Services Committee oversight, including hearings, research, and testimony required to assess these reports.

This *Special Report* will outline Heritage's recommendations for how Congress can construct the NDAA and the defense appropriations bill for FY 2024 in such a way that strengthens the U.S. Armed Forces and national security.

## Armed Services

### Army

The Army has been hammered by four years of budgets that have failed to keep pace with inflation. In response, the Army has been forced to slash procurement quantities for new equipment (except for those that fall within their "31+4" priorities), reduce training standards, and cut back on military construction.<sup>7</sup> Military construction is already inefficient due to the Buy American Act of 1933, which imposes domestic content requirements on federal construction. Further losses in buying power will push the Army into strategic insolvency. Arguments that China is primarily a maritime problem—and thus the United States can afford a smaller, less capable Army—can be considered only with the appropriate recognition that in the past the country narrowly focused its strategy and forces on a single threat,

only to be confounded by the appearance of a new, unexpected one. Wars in Korea, Vietnam, Kuwait, Grenada, Panama, Iraq, and Afghanistan are the most recent examples of this phenomenon. Strategies can be changed in a day, but military force structure takes decades to modify.

To improve the current posture of the Army, Congress should:

**Recommendation 1: Speed up the pace of Army modernization.** The year-over-year loss by the Army of buying power, losing tens of billions of dollars since FY 2020,<sup>8</sup> has taken a toll on Army modernization. Flagship programs such as the Long-Range Hypersonic Weapon and the Precision Strike Missile have been preserved but at the expense of many of the less visible but still critically important programs such as the Joint Lightweight Tactical Vehicle, Armored Multi-Purpose Vehicle, and others, which have seen their procurements slashed.<sup>9</sup> During posture hearings, policymakers should drill down on the impacts of these cuts, specifically asking at what pace are the Army's Armored Brigade Combat Teams and Infantry Brigade Combat Teams, as organizations, being modernized. Given that there are 58 total Brigade Combat Teams in the Army, if fewer than two or three are being modernized per year, the Army should be pressed to acknowledge that they are aging faster than they are modernizing. Congress should then investigate how they can accelerate those time frames.

**Recommendation 2: Require an updated risk assessment of a smaller Army on the National Defense Strategy (NDS).** The FY 2023 NDAA reduced the size of the active-duty Army from 485,000 to 452,000.<sup>10</sup> Yet, other than difficulties in recruiting, there was no strategic rationale or risk assessment provided to inform policymakers of the impact of a 6 percent cut in the size of the Army. Nor do policymakers know how the Army will adjust its force structure to accommodate this cut. Congress should require an updated risk assessment on the Army's ability to execute its portion of the NDS given its diminished size.

**Recommendation 3: Require an independent assessment of Army drone, ballistic missile, and cruise missile defense capabilities.** The war in Ukraine has highlighted the importance of ballistic and cruise missile defense in modern warfare. The conflict has also brought attention to how anemic these capabilities currently are in the U.S. Army. The President recently approved sending one Patriot battery to Ukraine. More cannot be provided because they are among the most highly deployed assets in the Army. As a result of assumptions made about future warfare around 2011, the Army is critically lacking capabilities in this domain, relying today on a handful of Maneuver Short Range Air Defense (M-SHORAD) systems, some Stingers, and 16 Patriot battalions.<sup>11</sup> This translates to both an internal



shortfall and an inability to provide any assistance to allies and partners. Because the Army has not placed any demands on its industrial base for a mid-tier missile and drone defense system, European and Asian allies have been forced to look elsewhere. Emblematic of this problem has been the need for the United States to contract to provide Ukraine the Norwegian Advanced Surface-to-Air Missile System (NASAMS).<sup>12</sup> Congress should require the Army—and, simultaneously, an external organization—to conduct an assessment of alternatives to close this vulnerability.

## Navy

Congress can take select but vigorous action in the next NDAA to positively improve the Navy's shortcomings relative to the increasing military threat from China and Russia. Additionally, a larger topline budget is required to address lost purchasing power and contractual obligations triggered by higher-than-anticipated inflation, which alone could result in a 2 percent to 3 percent burden for the Navy's procurement budget.

To equip the Navy for great-power competition, Congress should:

**Recommendation 4: Implement a modern Naval Act to put the Navy on track to meet a congressional fleet goal of 355 ships.** Inspired by the successful Naval Act of 1938 and leveraging savings of block buys, Congress should create a Naval Act of 2024.<sup>13</sup> A war with China would likely be decided at sea and in the air, and an American victory will depend on having adequate naval forces.<sup>14</sup> This one-time legislation, performed in addition to the annual NDAA and defense appropriations process, would fund a large block buy of approved ship designs in production today at numbers stipulated in the current approved Future Years Defense Program that runs through 2027. This would include two *Ford*-class aircraft carriers, 10 *Arleigh Burke*-class destroyers, 15 *Constellation*-class frigates, 12 *Virginia*-class nuclear submarines, three *Columbia*-class ballistic missile submarines, and two *San Antonio*-class and one *America*-class large amphibious warships. Currently such a block buy would total \$152.3 billion before anticipated 10 percent savings.<sup>15</sup> A naval act, as it did in 1938, can grow the nation's naval shipbuilding capacity for a war that could occur with China this decade.

**Recommendation 5: Direct the Secretary of Homeland Security and Secretary of the Navy to provide a combined assessment of expanded basing in American Samoa.** This basing would enable greater capacity to identify and execute maritime training and infrastructure projects supporting a sustained maritime security presence. Additionally, a regionally located staff and deployed platforms would further enable operational (e.g.,

the U.S. Coast Guard’s Operation Blue Pacific 27) and capacity-building activities with regional partners at a time of increased Chinese illegal fishing and military encroachment in the South and Central Pacific.<sup>16</sup>

## Marine Corps

The U.S. Marine Corps, the only service rated as “strong” in the 2023 *Index of U.S. Military Strength*, has fully invested in adjusting to a dramatically changed operational and threat paradigm to include longer-range rockets and missiles, unmanned systems, space-based sensors and reconnaissance capabilities, precision attacks on logistics and command nodes, and the systematic destruction of supporting infrastructure. The Corps’s Force Design 2030 accounts for these maturing trends and will re-posture the Corps to have a smaller multi-spectral footprint, a modernized inventory of longer-range precision weapons, an enhanced ability to obtain and share detailed awareness of the enemy and relevant battlespace, and the ability to make meaningful contributions to naval power and joint and combined operations in any theater of action.

To sustain the Corps’s efforts, Congress should:

**Recommendation 6: Sustain funding, on time, for all major modernization programs—including the amphibious combat vehicle, F-35B, KC-130J, MQ-9A, and procurement of critical munitions.**

Marines cannot take for granted that funding for essential programs is assured in the current fiscal environment. The Corps, like the other services, has had to deal with disruptions to programs and force readiness created by continuing resolutions for the past decade.<sup>17</sup> The FY 2023 budget maintained this pattern, being enacted a full fiscal quarter late.

The FY 2024 NDAA should re-emphasize congressional support for the Corps’s efforts and mitigate the damage caused by delayed appropriations and volatile funding.

**Recommendation 7: Provide funding for the Light Amphibious Warship (LAW).** Though a Navy program, the LAW is essential to realizing the Corps’s Force Design 2030 and its concepts for distributed operations. The Marines can reorganize their forces into smaller units optimized for highly contested operating environments (e.g., the archipelagic waters of the Pacific within range of China’s weapons), but they would be hard-pressed to use those units if they are unable to move and sustain them.<sup>18</sup> This is the driving purpose of the LAW. The Navy’s shipbuilding accounts are already strained by mounting costs to modernize the current fleet and introduce new platforms. The LAW is a new demand but is essential to the Corps.<sup>19</sup>

**Recommendation 8: Provide requested funding for critical infrastructure projects.** As noted by Marine Corps Commandant General David Berger, “Half of all FY22 major construction projects for the Marine Corps supports funding on Guam. Delays in Guam construction investment will delay the movement of Marines from Okinawa and slow the rebalancing effort in the Pacific.”<sup>20</sup> Support was sustained in FY 2023 and should be maintained in FY 2024.

## Air Force

Rebuilding an Air Force that can defeat a peer competitor requires increasing readiness levels and refreshing and growing the service’s fleet of aircraft, commensurate funding, and leadership dedicated to making it happen. In order to attain the Air Force’s number of operational squadrons it states it needs to fight a peer competitor, it should stop scheduled retirements of legacy platforms to sustain capacity, increase the rate at which it acquires fifth-generation systems, and increase the readiness of all combat platforms.

To better prepare the Air Force for great-power competition, Congress should:

**Recommendation 9: Reject any proposal to further reduce the number of fighters, bombers, and tankers in the U.S. Air Force, the Air National Guard, and Air Force Reserve inventories.** The 2023 presidential budget for the Air Force reflects plans to cut 1,468 aircraft from its fleet by 2027. This includes the accelerated retirement of 646 fighters and procurement of just 246 over that period.<sup>21</sup> If enacted, this would equate to a net reduction of 19 percent of the total fighter fleet. The proposed reductions directly contradict Air Force studies and senior officer remarks<sup>22</sup> that the Air Force is 25 percent too small to execute the NDS.<sup>23</sup> Air Force Chief of Staff General Charles Brown has stated that the next war could see “combat attrition rates and risks...that are more akin to the World War II era than the uncontested environment to which we have become accustomed” since the Gulf War.<sup>24</sup> Legacy and new “four-plus” generation fighter platforms will not be able to safely operate around high threat areas. However, it takes seven years to fully develop a fighter pilot. Until those fourth-generation aircraft are replaced, the Air Force will have to train pilots to quickly transition to fifth-generation platforms once they become available.

Divestments of fighter and tanker assets should end until the platforms in the current inventory, coupled with new acquisitions, bring the number of aircraft to 386 operational squadrons mandated by the 2021 NDAA.<sup>25</sup>

**Recommendation 10: Truncate the acquisition of fourth-generation F-15EXs to 74 aircraft (one wing) and accelerate the acquisition of fifth-generation F-35A fighters to at least 100 jets per year.** The Air Force’s current plan to acquire F-15EX fighters will deliver markedly less capability and will cost the Air Force more per aircraft to acquire and operate than the F-35.<sup>26</sup> The Russian Su-35 is a four-plus generation fighter that has fared poorly, even in the relatively moderate threat environment of Ukraine against dated Russian S-300 missile systems.<sup>27</sup> The Su-35 would not be able to operate in proximity to the more modern S-400, nor will the F-15EX.

**Recommendation 11: Direct the Air Force to increase F-15E, F-16C, and F-35A mission-capable rates to 80 percent and F-22A mission-capable rates to 60 percent by the end of FY 2024.** Mission-capable rates measure how much of a certain fleet is “ready to go” at a given time. In 2018, the Secretary of Defense directed the Air Force to increase the mission-capable rates of its F-16, F-22, and F-35 aircraft to 80 percent by the end of September 2019,<sup>28</sup> but the Air Force all but ignored that directive. The service chose instead to highlight the deployability of “lead force elements” within its fleet.<sup>29</sup> While important for responding to a regional disturbance, the ability to rapidly deploy small packages of combat aircraft is not an effective measure of a service’s ability to defeat a peer competitor.

**Recommendation 12: Direct the Air Force to increase fighter flight hours and sortie rates to a minimum of 17 hours a month and three sorties a week per pilot by the end of FY 2024.** In 2021, for the third consecutive year, both the number of flying hours and the number of sorties pilots received failed to meet even the minimum mission-ready requirements. The average hours a combat mission-ready pilot received was just 10.3 hours and 6.3 sorties a month in 2021.<sup>30</sup> That means the average line fighter pilot flew one-and-a-half sorties a week for the duration of 2021. In a high-performance jet, this low level of flying leads even the best pilots to question their execution of very basic tasks.

**Recommendation 13: Direct the Air Force to assess wing combat readiness on a recurring two-year cycle.** Individual squadron readiness assessments throughout the Air Force are now made by the squadron commanders of the units they command. Those assessments are based on the additive metrics of aircraft mission-capable rates, aircrew and maintenance personnel qualifications, spare parts, and other readiness factors.<sup>31</sup> Those metrics in no way convey how ready those squadrons are to mobilize, deploy, and fight in a high-threat environment.<sup>32</sup> Few if any squadron commanders are willing to step beyond those metrics to declare that they are not mission

ready. Those assessments should be made by independent teams trained specifically to evaluate the ability of units to rapidly mobilize, generate, and fly combat sorties.

**Recommendation 14: Direct the Air Force to prioritize fielding active-duty F-35A units in the Pacific, Europe, and then the United States before the Air National Guard.** The demands of the 2022 NDS require sufficient combat power forward-positioned to thwart a move by either China or Russia with little to no warning. In 1987,<sup>33</sup> at the height of the Cold War, U.S. Air Force Europe and Pacific Air Force had a total of 43 combat-coded forward-stationed fighter squadrons—11 more than the 32 (total) active-duty squadrons the Air Force currently has on its books today and just seven squadron equivalents short of today’s total force (50).<sup>34</sup> Today’s “total force” Air Force could likely deploy just 30 of its 50 available total force fighter squadron equivalents to fight a peer competitor.<sup>35</sup> In order to rapidly meet an emergency deployment, the Air Force should prioritize active units’ transition to the F-35A before Air National Guard units receive the aircraft.

**Recommendation 15: Direct the Air Force to return the Air Reserve Component (ARC) to a strategic reserve for the United States and allow the Air National Guard and Reserves to reset the health of their respective force structures.** The Air Force has a shortfall of more than 2,000 pilots, and a majority of those empty billets are in the ARC (the combined forces of the Air National Guard and Air Force Reserve). The operational tempo is largely to blame for the pilot shortfall in the ARC, and the Air Force needs to curtail Air National Guard and reserve deployments to rebuild and strengthen that force. As it recovers manpower, Air National Guard operational fighter squadrons should be plussed up from an average of 18 primary assigned aircraft to 24.

**Recommendation 16: Direct the Air Force to grow its pilot production capacity to 1,700 annual pilot candidates and allow more screening of candidates.** The service’s pilot shortfall is significant and will likely begin to grow again as the world returns to increased travel and the commercial airlines aggressively recruit pilots to cover that demand. According to the Air Force, the service graduated 1,381 pilots from flight training in 2021, and the graduation rate was 95.5 percent. The vast majority of those who washed out from flight school in 2021 were eliminated due to health/discipline/other reasons. Just 0.27 percent were eliminated based on performance.<sup>36</sup> Retention increased slightly, primarily due to freezes in commercial carrier hiring. However, airline pilot retirements will continue apace, and as the industry recovers, the demand for pilots and the associated

salaries will grow precipitously. To compound that issue, increasing the number of operational squadrons to 386, as this paper proposes, would require more than 900 additional Air Force pilot billets.

## Space Force

The Space Force continues to experience the growing pains of setting up a new service within a military department. It will take time to establish its unique culture. However, one of the biggest obstacles is bringing all the space assets and personnel from the other services under its roof. For that reason, Congress should:

**Recommendation 17: Direct the Space Force to acquire anti-satellite capabilities.** The Space Force was formed, in part, to bring an offensive mindset and accompanying capabilities that can place adversary systems at risk during a time of confrontation. To date, the service's only offensive system of record that can be found in open-source literature is a system called Meadowlands, a mobile, terrestrial-based counter-communications system.<sup>37</sup> The Space Force should rapidly develop and field directed energy and other kinetic systems that can permanently disable enemy systems without creating massive fields of space debris.

**Recommendation 18: Require the Space Force to immediately field a second space fence (a space surveillance system used to track satellites) in western Australia and a Low Earth Orbit-based constellation of surveillance platforms.** The United States has far too few space-based sensors to keep track of the satellites of its growingly aggressive peer competitors. When coupled with the shortage of dedicated terrestrial-based space surveillance systems, the entire U.S. space surveillance capability has significant gaps in coverage. These gaps are managed through prediction of where those enemy satellites should be, which works well until one of them is moved. With the influx of maneuverable CubeSats, and the number of operational satellites potentially doubling over the next three years, keeping track of—much less targeting—enemy systems will become that much more challenging. The Space Force needs to move now to close those gaps.

## Strategic Assets

The DOD is also responsible for important assets in national defense that do not necessarily reside with the military services. These are very important to a strong national defense and are traditionally addressed by the NDAA.

## Cyber Assets

As cyber becomes a bigger and more important part of daily lives and military operations, the United States needs to have the proper amounts of people and resources. To ensure a strong defense in cyber, Congress should:

**Recommendation 19: Support U.S. Cyber Command budget requests to enable the growth of the Cyber Mission Force teams.** The Cyber Mission Force is comprised of 133 teams that conduct a wide range of offensive and defensive cyber missions. The current teams are made up of approximately 6,200 civilian and military personnel. The broad range of missions and threats has placed a high demand on these teams, and General Paul Nakasone, the commander of U.S. Cyber Command, has indicated that the force needs to grow to meet mission demands. The force is projected to grow by 14 teams in the coming years, and Congress should fully support this growth.

## Nuclear Forces

America's nuclear forces underpin U.S. strategic deterrence, the number one priority for national defense. However, as China pursues a strategic breakout of its nuclear forces and Russia continues to expand its nuclear arsenal while issuing nuclear threats against Ukraine and the West, the United States cannot proceed with its modernization efforts through business as usual. To sustain a viable deterrent as the threats increase, Congress should:

**Recommendation 20: Fund the Sea-Launched Cruise Missile-Nuclear (SLCM-N) and its accompanying warhead by at least \$400 million to accelerate development of the program.** Last year, Congress rejected the Biden Administration's ill-advised decision to cancel the SLCM-N and provided \$45 million to continue research and development for the program. Now, it should accelerate the program by funding it at the level necessary to move the program into development and field it by the end of the decade. To develop the accompanying warhead, the National Nuclear Security Administration (NNSA) should leverage the same engineering approach it used to quickly produce the W76-2 (i.e., leverage an ongoing life-extension program, such as the W80-4) and spiral off a minor modification.

**Recommendation 21: Require the Air Force and the Navy to submit a plan to decrease the time to upload additional warheads or launchers to the missile forces, if necessary.** The nuclear threats are increasing more quickly than the United States anticipated, but the current U.S. force

structure was designed around the assumption that the United States would face only one nuclear peer—Russia—rather than both Russia and China.<sup>38</sup> As a result, the United States may need to increase its deployed arsenal in the near term in the event of a crisis or a delay in the modernization of one of the legs of the nuclear triad. The United States should be prepared to utilize its upload capacity as quickly as possible.<sup>39</sup>

**Recommendation 22: Require a detailed analysis on the actions necessary to restore the bomber force to alert or partial alert status.** Admiral Charles Richard, former commander of U.S. Strategic Command, has discussed the potential need to move the bombers to alert status should another leg of the triad no longer be available, noting that the bomber leg is not available from day to day.<sup>40</sup> Congress should require the DOD to report on what moving the bomber force to alert status would entail, such as an investment in manpower and facilities, and should also consider returning just a portion of the fleet to alert status.

**Recommendation 23: Direct the DOD to identify ways to accelerate nuclear modernization timelines.** The delivery of nuclear modernization programs has no margin for error, but fielding programs such as the *Columbia*-class submarine, Long Range Standoff missile, Sentinel missile, and B-21 bomber is becoming more urgent as the threat posed by China grows more quickly than previously anticipated. Congress and the DOD should move these programs along as quickly as possible. For example, last year Congress required the DOD to consider applying a DX acquisition rating to these programs.<sup>41</sup> Congress could take this further and mandate the DX rating and separate nuclear modernization programs from the traditional cumbersome acquisition bureaucracy.<sup>42</sup> The DOD can also accelerate the nuclear certification for the B-21 bomber.

**Recommendation 24: Require the NNSA to identify the resources and authorizations necessary to meet the plutonium-pit-production deadline.** In 2021, the NNSA revealed that a delay at the Savannah River Site will prevent it from meeting the requirement to produce 80 plutonium pits per year by 2030. However, if the NNSA determines it cannot meet that requirement, it is also required by law to identify the resources needed to meet that requirement.<sup>43</sup> The ability to produce 80 pits per year by 2030 is necessary to compete with China, which is estimated to be able to produce at least 1,500 warheads by 2035—roughly the size of the entire U.S. deployed arsenal.<sup>44</sup> Congress should require the NNSA to report how to meet the pit-production deadline. In particular, the NNSA should report on what additional funds are necessary and which federal laws and regulations are the most restraining for pit production.



**Recommendation 25: Shorten the NNSA’s process to develop a new warhead.** Last year, the Senate’s version of the NDAA directed the NNSA to review ways to shorten the seven-phase process to develop a new warhead, which, as it stands, is too slow to pace the rapidly changing threat environment. The Senate report noted that just the “studying and engineering” phases for the modern W93/Mark 7 warhead, for instance, will take at least 12 years. Congress should provide the funding and authorizations required to implement recommendations in the NNSA’s report, which is due back to Congress by May 1, 2023.<sup>45</sup>

**Recommendation 26: Commission a study on modernizing the nuclear command, control, and communications (NC3) system.** Because NC3 enables the early detection of a nuclear attack and the organization of a retaliatory response, it is a fundamental component of U.S. nuclear deterrence. Yet systems such as the Chinese Fractional Orbit Bombardment System (FOBS) and Russian Avangard intercontinental hypersonic weapon reduce early warning time and could threaten the command and control of U.S. nuclear forces. In addition to continuing investment in current NC3 modernization plans, the DOD should consider whether the current plan will suffice in a more advanced nuclear threat environment and identify steps to improve the system’s resilience in deterring or responding to a possible Chinese or Russian decapitating first strike.

## Missile Defense

Missile defense should remain a top defense priority not only for protecting Americans from attack but also for deterring adversaries by denial and enabling U.S. freedom of action overseas. Improving missile defense of both the homeland and U.S. and allied assets abroad only grows in importance as advanced missile technology proliferates around the world. Congress should:

**Recommendation 27: Adjust missile defense policy to support defending against Chinese and Russian intercontinental missile threats.** Current policy, as most recently clarified by the FY 2020 NDAA, states that the United States will develop a homeland missile defense system against the threat posed by rogue states while “rely[ing] on nuclear deterrence to address more sophisticated and larger quantity near-peer intercontinental missile threats to the homeland of the United States.”<sup>46</sup> However, given the unprecedented rate at which China and Russia are growing their arsenals of missiles that can threaten the U.S. homeland, this policy has become outdated, and Congress should abandon it.

**Recommendation 28: Increase procurement of regional missile interceptors.** The conflict in Ukraine has proven that regional missile defense systems are vitally important for modern-day conflict. Congress should continue authorizing funding to maximize production of Patriot, Terminal High Altitude Area Defense (THAAD), and SM-3 Block IIA interceptors.

**Recommendation 29: Mandate that the Hypersonic and Ballistic Tracking Space Sensor (HBTSS) program be incorporated into the Space Development Agency's (SDA's) missile-sensing architecture as quickly as possible.** HBTSS, a satellite under development by the Missile Defense Agency (MDA), will provide quality targeting and tracking data on hypersonic threats.<sup>47</sup> However, and as noted by the Senate's NDAA report for FY 2023, there seems to be no plan between the SDA and the MDA to fully integrate HBTSS into the SDA's space sensing architecture.<sup>48</sup> Therefore, Congress should require the SDA to accelerate acquisition of HBTSS and deploy HBTSS satellites as soon as possible.

**Recommendation 30: Require the MDA to bolster the defense of Guam.** The Pentagon finally initiated plans to build a comprehensive missile defense system on Guam as part of its FY 2023 budget. While this is welcome progress, the DOD's plan will not be completed until around 2027, the year estimated to be most dangerous for a Chinese invasion of Taiwan. Congress should require the MDA to utilize existing capabilities to bolster Guam defenses as quickly as possible while the long-term defense system is underway. For instance, the MDA could utilize *Ticonderoga*-class cruisers, which are set to retire, for a Guam defense command-and-control node in the short term.<sup>49</sup>

## The DOD

The 2022 NDS correctly identified improving DOD business practices as an important area for investment and concern.<sup>50</sup> From how the DOD organizes its recruitment efforts to its physical infrastructure and how it educates civilians and military personnel, there are many issues that Congress needs to address, and they affect more than just one individual service.

### Improve Military Recruiting Efforts

FY 2022 was a disastrous year for military recruiting, with the Army missing its goals by 25 percent and the other services coming close to missing theirs. FY 2023 is shaping up to be as bad or worse. The Army has already slashed its end

strength by 33,000 from FY 2022 to FY 2023 as a result.<sup>51</sup> Yet to date there has been little visible effort on the part of the White House, Pentagon, or Congress to understand—yet alone solve—the problem other than re-authorizing targeted recruiting incentives in the FY 2023 NDAA.<sup>52</sup> Comprehensive action, not more requests for reports, is needed now. In that regard, Congress should conduct a series of hearings and work sessions with the DOD to develop a package of initiatives<sup>53</sup> to be included in the FY 2024 NDAA, to include:

**Recommendation 31: Increase the number of Junior Reserve Officer Training Corps programs.** The current number of 3,432 should gradually be increased to 6,000.

**Recommendation 32: Make the Armed Services Vocational Aptitude Battery Career Exploration Program (ASVAB CEP) more available for students.** ASVAB CEP is a free, widely recognized, multiple aptitude battery that measures developed abilities and helps predict future academic and occupational success in the military and in other vocations. Congress should require that the ASVAB CEP be available for students for any secondary school that accepts federal funding.

**Recommendation 33: Require the DOD to study what benefits, programs, and compensation programs have the most value to Generation Z.** The DOD should provide those results to Congress accompanied by specific legislative proposals to modify existing programs to be included in this year's NDAA.

**Recommendation 34: Encourage earlier engagement between youth and military recruiters.** Federal law requires public and nonprofit schools to release information on students ages 17 and older to military recruiters or risk losing federal funding. Many students have already begun before age 17 to consider post-high-school options. Moreover, high school juniors are between 16 and 17 years of age, and students in that year of school usually visit college campuses. Congress should change the law to allow recruiter engagement at age 16.

**Recommendation 35: Authorize and fund programs at local sites to allow recruiters and specialized personnel to conduct training and education to increase the number of interested individuals who can pass Armed Forces entry requirements.**

**Recommendation 36: Require a report from the DOD on information technology the services use to manage recruitment.** The report should explain the systems used to connect with prospective volunteers, the efficacy of those systems, and the potential to unify service recruiting efforts under a single cloud-based customer relationship management software solution.

**Recommendation 37: Require the DOD to re-examine its recruiting strategies.** The DOD should redeploy its recruiting assets and resources to those areas that have historically experienced the greatest success rather than pursuing some aspirational percentages of race, ethnicity, gender, or some other personnel characteristic that does not directly correlate to warfighting.

### **Divisive Personnel Policies and Politicization in the Armed Forces**

Emerging polling data links politicization of the military to a decline in American public trust in the military, which, in turn, negatively affects military readiness.<sup>54</sup> The perception that military leadership is distracted by non-warfighting missions is leading to increasing numbers of servicemembers departing the military the moment their formal commitments end. There is a widely shared recognition that the U.S. military is increasingly distracted from its primary missions by social, environmental, and progressive agendas. To restore readiness, warfighting, and lethality to the forefront, Congress should advance a group of initiatives in the FY 2024 NDAA that together could be called the Restoring Military Readiness Act. This package should include the following:

**Recommendation 38: Require the DOD to conduct and make public polls regarding perceptions and morale of servicemembers.** These polls should pay particular attention to the perception of politicization of the military. The American public should not have to rely on outside civilian agencies to conduct this polling.

**Recommendation 39: Eliminate the construct of Diversity, Equity, and Inclusion (DEI) from within the DOD.** The entire premise of DEI runs counter to the foundational principles that define the U.S. military as an institution that depends on a team approach, one where every member must rely on one another and not have to worry that his leader or his subordinates doubt their abilities or decisions based on considerations of race, gender, or ethnicity. The DOD should scale back DEI offices, and staffs that were formerly titled as Equal Opportunity and Equal Employment Opportunity should be restored in their stead to ensure that the military remains free from prejudice, bigotry, unequal treatment, and discrimination.

**Recommendation 40: Prohibit the instruction or propagation of Critical Race Theory (CRT) in the U.S. military.** Rather than specifying the term CRT, which can be challenging to find and prove, prohibit the instruction of any idea that:

- Violates the Civil Rights Act of 1964, including but not limited to claims that individuals of any race, ethnicity, color, or national origin are inherently superior or inferior;
- States or implies that individuals should be adversely or advantageously treated on the basis of their race, ethnicity, color, or national origin; or
- States or implies that individuals, by virtue of race, ethnicity, color, or national origin, bear collective guilt and are inherently responsible for actions committed in the past by other members of the same race, ethnicity, color, or national origin.

**Recommendation 41: Establish formal anonymous reporting mechanisms for military members to describe incidents of partisan activities and policies to Congress.** Senator Tom Cotton (R-AR) and Representative Dan Crenshaw’s (R-TX) “hotline” has been useful in that regard, but these mechanisms should be institutionalized.

**Recommendation 42: Disallow coverage of abortion-related travel expenses.** In October 2022 the DOD issued a memorandum that, among other things, instructs employees to establish “travel and transportation allowances for Service members and their dependents” for abortion if such services are not available locally.<sup>55</sup> Congress should revoke any current directive, memoranda, regulation, instruction, order, or similar rule or guidance from the DOD instructing or allowing employees and commanders to cover abortion-related travel expenses.

**Recommendation 43: Disallow abortions and abortion referrals at VA medical facilities.** In September 2022 the Department of Veterans Affairs (VA) issued an interim final rule providing for immediate abortion procedures and abortion referrals and counseling to veterans at VA medical facilities.<sup>56</sup> The VA has no authority to provide taxpayer-funded abortions for its beneficiaries.<sup>57</sup> Congress should revoke any current directive, memoranda, regulation, instruction, order, or similar rule or guidance from the DOD instructing or allowing employees, administrators, or medical personnel to perform abortions or provide abortion referrals on or in any VA medical facility.

**Recommendation 44: Prevent DOD resources from paying for abortion and sexual-orientation and gender-identity treatments.** Congress should ensure that no portion of past or future appropriations in the FY 2024 NDAA are used to implement, enact, or enforce coverage for abortion, abortion counseling, or gender “affirming” treatments—including

puberty blockers, hormone treatments, gender reassignment surgery, or the like—under TRICARE, CHAMPVA, or any medical benefits program administered by or through the DOD or the VA for active or retired service-members or their beneficiaries.

**Recommendation 45: Do not extend certain TRICARE coverage related to assisted reproductive technology services.** Congress should not extend these services—including gamete donation and surrogacy—to same-sex and unmarried couples. Such services are rife with medical and moral concerns.<sup>58</sup> Furthermore, a child deserves the chance to be raised by both a mother and a father.<sup>59</sup> The FY 2024 NDAA should not be used to further perpetuate the notion that the desires of adults trump the rights and needs of children.

**Recommendation 46: Require a report on the impact of the change in policy regarding individuals with gender dysphoria.** In his first week in office, President Joe Biden overturned the existing policy on military service by transgender individuals. Former Secretary of Defense James Mattis devised the existing policy on the advice of medical professionals, senior military leaders, and other experts over the course of six months.

Mattis’s task force found that transgender servicemembers with gender dysphoria attempt suicide at eight times the rate of the general population and seek mental health help nine times more often.<sup>60</sup> Despite these alarming findings, the President allowed unrestricted service by transgender individuals and, further, resolved to pay for gender reassignment surgery with government funding.<sup>61</sup>

There have been no studies on the impacts on readiness of including servicemembers who are prone to severe anxiety, suicide attempts, and increased mental health treatment. Similarly, there has been no study of the absence of these same individuals from their units due to gender reassignment surgery and recovery and the number of transgender servicemembers who are considered “non-deployable” for these reasons. Congress should require the DOD to provide a report on these readiness impacts.

**Recommendation 47: Dismantle the Selective Service System.** Last year, Congress discussed and almost passed an expansion that would have forced women to register with the Selective Service System. It would have been a mistake. The likelihood of the Selective Service being used is zero, and the system as currently constructed *detracts* from military readiness. As explained by James Jay Carafano, vice president of The Heritage Foundation’s Kathryn and Shelby Cullom Davis Institute, because of the need to train the draftees who would join the Armed Forces, “the Selective Service System actively damages current readiness and capabilities.”<sup>62</sup>

Further, the draft “is an anachronism masquerading as something that’s still relevant. The draft contributes nothing to deterring the likes of China, Russia, Iran, or North Korea. The draft does nothing to build better citizens or patriotism, since other than filling out a form, it requires nothing from our youths.”<sup>63</sup> The best path forward is to improve military readiness and recruitment. Congress could also look at expanding volunteer opportunities in the military—or even a voluntary registry. The compulsory nature of the Selective Service does not improve readiness or recruiting efforts.

**Recommendation 48: Require Ligado Networks to reimburse private companies and individuals for any damage the company’s operations cause to GPS-reliant equipment.** A 2020 Federal Communications Commission order granted an application from Ligado Networks to operate a terrestrial network using spectrum next to the bands reserved for the Global Positioning System (GPS). Damage to Americans’ GPS receiver devices may occur because Ligado’s signals are estimated to be 2 billion times as powerful as received GPS signals. In the previous Congress, Representative Jim Cooper (D-TN) introduced a bill to require Ligado to compensate private companies for damages occurring because of signal interference. There is obviously a military impact of Ligado signals on GPS. This bill had bipartisan House support and mirrored the bipartisan bill in the Senate introduced by Senator Jim Inhofe (R-OK) in June, co-sponsored with Senators Tammy Duckworth (D-IL) and Mike Rounds (R-SD). The bills did not require additional federal spending. Language from the bill should be included in the NDAA.

## Cost Efficiencies in the DOD

It is in the DOD’s—and the nation’s—interests to find and eliminate inefficient practices across the DOD enterprise. Making such changes would make the DOD more effective in executing its mission at lower cost. Recovered funding could be redirected to the many vital functions of the Armed Forces. Congress should:

**Recommendation 49: Reform the Basic Allowance for Housing (BAH).** The BAH needs to be restored to its proper role of an allowance—as opposed to a main source of income—by requiring a married military couple (who are residing together) to share a single allowance and by requiring all servicemembers to document their housing expenditures. These changes would reduce costs and are completely appropriate. Congress should phase in a more accurate housing allowance, as servicemembers are not entitled to any BAH money they receive in excess of what they pay for housing as extra compensation—nor should they have any such expectation.

**Recommendation 50: Reform the Defense Commissary System.**

There are likely savings to be found within the system of food stores (commissaries) that provide groceries to servicemembers. Even with a \$1.2 billion appropriation, prices in commissaries are often higher than in commercial stores.<sup>64</sup> Many commissaries are located within a few miles of commercial alternatives. Directly reimbursing troops for groceries, rather than maintaining a separate system of brick-and-mortar stores, may be far more cost-effective.

**Recommendation 51: Authorize a new round of Base Realignment and Closure (BRAC).**

In 2017, the DOD assessed that it has more than 19 percent excess infrastructure that could be reduced through a BRAC.<sup>65</sup> These unnecessary costs could be better allocated elsewhere in the budget. The DOD estimates that a new round of BRAC would save \$2 billion in fixed costs.<sup>66</sup> There are multiple ways in which Congress can allay concerns that lawmakers might have.<sup>67</sup> Furthermore, a new round of BRAC would assess how the current infrastructure is adapted to the changed goals of the military.<sup>68</sup>

**Recommendation 52: Lift the moratorium on public-private competition.**

Since 2012, Congress, under pressure from federal employee unions, has prohibited competition between public and private organizations to provide the most cost-effective services for the U.S. government. This moratorium even extends to public-public competition, which leads to situations, for instance, where the municipality in which a base is located may not offer its services to the base. DOD-specific competition remains prohibited per Section 325 of the 2010 NDAA.<sup>69</sup> Even critics will admit that “competition is the greatest single driver of performance and cost improvement.”<sup>70</sup> The RAND Corporation has estimated that private competition could save between 30 percent and 60 percent of current funds.<sup>71</sup> The common argument against such competition is that the process has not been updated and has yielded problems for both government and the private sector.<sup>72</sup> This is more reason for Congress to update Circular A-76 (the specific Office of Management and Budget federal policy for managing public-private competitions) and end the moratorium on its conduct.

**Recommendation 53: Create a pilot program to roll over unused funds.**

Congress should allow the DOD to roll over unused funding to the next fiscal year. On October 1 of every fiscal year, any Operations and Maintenance funding that remains unused vanishes. This creates a fear among DOD agencies of less funding the following year. This, in turn, creates a “use it or lose it” mentality, which leads to unnecessary purchases to use up the funds. DOD agencies spend up to 31 percent of their annual funds in the fourth quarter. September sees spending twice as high as the other months of the year.<sup>73</sup>



As Mercatus Center economists Jason Fichtner and Robert Greene determined, this acceleration of federal spending decreases the quality of spending, as poor choices are made in the interest of quickly using funds.<sup>74</sup> So long as the entities do not benefit from saving funds, there is no incentive for them to spend more efficiently. A pilot program enabling specific DOD agencies to roll over 5 percent of their operating budgets could demonstrate a solution across the entire department. This program could also help the DOD cope with the constant continuing resolutions that erode spending authorities.

**Recommendation 54: Reform the DOD’s current TRICARE system and introduce a private-sector health insurance option for military families.** The Military Compensation and Retirement Modernization Commission assessed, “The quality of TRICARE benefits as experienced by Service members and their families has decreased, and fiscal sustainability of the program has declined.”<sup>75</sup> A private-sector health insurance option for military families would provide higher quality care and result in \$60 billion in savings.<sup>76</sup> Private-sector health insurance options would give servicemembers and their families more choices and serve as a competition catalyst for the current TRICARE system.

**Recommendation 55: Require the DOD to replace military personnel in commercial positions with civilian employees.** The DOD currently employs approximately 340,000 active-duty military personnel to perform support functions in commercial positions. The required training and rotations of military personnel are shorter than the time that a civilian usually spends on a job, making military personnel more expensive. Some of these positions can be transformed into civilian positions. The Congressional Budget Office reports that replacing 80,000 of these positions with civilians would reduce discretionary budget authority by a total of \$19.6 billion during the FY 2023–FY 2032 period.<sup>77</sup>

**Recommendation 56: Evaluate energy projects for effectiveness and efficiency, not carbon emissions.** The current Pentagon leadership has stated that climate change will touch every aspect of the department’s planning.<sup>78</sup> While energy and electricity are paramount to every aspect of the DOD, the reliability of energy sources is more important than their carbon emissions. In many of the environments where the Pentagon operates, such as Alaska, having energy is a matter of life and death that should not be taken lightly. Congress should prioritize mission needs when evaluating incoming energy proposals from the Administration.

## Defense Industrial Base

The COVID-19 pandemic, inflation, and the war in Ukraine have all tested the U.S. defense industrial base in different ways, and all have illuminated vulnerabilities in the U.S. military's ability to design, produce, and maintain its materiel. Supply-chain disruptions continue to cause delays and bottlenecks in defense production, while labor shortages threaten the defense industry from all sides. As a result, the armed services will have difficulty restocking munitions, building and maintaining ships, and performing other basic necessary functions in the near and long term. To address these and other issues, Congress should:

**Recommendation 57: Direct the Secretary of the Navy to explore a fifth public shipyard—with at least one option being on the American West Coast.** The Navy has four existing public shipyards in Hawaii, Maine, Virginia, and Washington State. All these shipyards suffer from decades of underinvestment, and the Navy predicts that 68 maintenance availabilities will be missed and deployments forgone if problems are not remedied. The Navy's Shipyard Infrastructure Optimization Plan (SIOP) is the current plan outlining improvements to dry docks, facilities, and capital equipment.<sup>79</sup>

Congress should continue fully funding SIOP, but this alone is inadequate, as the Navy predicts it would still miss maintenance availabilities. In an era of great-power competition, and especially of maritime competition with China, added shipyard capacity is a pressing need. The lack of dry docks and shipyard capacity in the Pacific is causing West Coast-based military families to be separated for maintenance done in East Coast shipyards, and it poses a strategic risk should a war over Taiwan come to pass. Congress should therefore direct the Secretary of the Navy to recommend potential sites, with each site's associated cost and timeline estimates, for a fifth public shipyard.

**Recommendation 58: Continue funding the construction projects, capital equipment purchases, and workflow optimization called for in SIOP.** Costing an initially estimated \$20 billion over 30 years, SIOP represents a relatively small piece of the defense budget, yet Navy shipyards keep attack submarines, aircraft carriers, and the submarine elements of the nuclear triad afloat.<sup>80</sup> That price tag is likely to increase this year, however: The initial \$20 billion estimate was always too low, in part because it did not use best practices for cost estimates, such as accounting for inflation. SIOP construction projects (particularly dry dock modifications) have already cost far more than initially estimated. For example, the dry dock

extension project at Portsmouth Navy Shipyard was initially estimated to cost \$381 million, then estimated in 2021 to cost \$715 million,<sup>81</sup> and now estimated to cost \$2.3 billion.<sup>82</sup> The FY 2023 NDAA required the Navy to revise its cost estimates, which will almost certainly result in a much larger price tag for SIOP.

Nevertheless, Congress should still make the reconstruction of Navy shipyards a top priority. Congress should also consider using alternative funding structures, rather than annual appropriations, to ensure that the varied and complex SIOP projects stay on schedule.

**Recommendation 59: Fund the National Defense Stockpile.** The National Defense Stockpile is the DOD's stockpile of 42 critical and strategic materials for use in a war or national emergency. It is a relatively small function of the DOD, but it can address some of the concerns surrounding defense supply chains. There is reason to worry that the National Defense Stockpile does not meet this requirement. Adjusting for inflation, the value of stockpile inventories today is only 4 percent of its value in 1989.<sup>83</sup> Congress used its authorities to sell off large amounts of stockpiled materials, because at the time, the DOD's analysis concluded that there were excess materials in the National Defense Stockpile.

Now, the stockpile's fund is shrinking dangerously. The National Defense Stockpile does not receive annual appropriations in the defense budget—either for new purchases or for operational expenses. Instead, it has a revolving fund in the U.S. Treasury called the National Defense Stockpile Transaction Fund, which allows managers to sell materials to generate funds. The funding model is sustainable only when commodity requirements are being reduced. With the transition to great-power competition—especially with China, which has control of much of the world's minerals—the United States is unlikely to find itself with excess materials in the stockpile for the foreseeable future.

The FY 2023 NDAA authorized \$1 billion for the National Defense Stockpile to acquire more strategic and critical materials while also granting new acquisition authorities and requiring the stockpile manager to submit an annual briefing to Congress on materials shortfalls.<sup>84</sup> While this was a step in the right direction, the necessary funding was not appropriated. Congress should again authorize funding for the National Defense Stockpile's operations and material acquisitions in the FY 2024 NDAA.

**Recommendation 60: Avoid sweeping domestic content requirements for defense items.** Under existing Buy American legislation, the DOD is required to buy products made by American companies that have at least 50 percent American-made components.<sup>85</sup> In recent years, lawmakers

have tried to increase this percentage to 75 percent or even 100 percent for defense end items. Others have pushed higher domestic content requirements for particular sectors or even specific items (for example, anchor chains for Navy ships). These laws are intended to protect the domestic defense industry often for both national security and political purposes.

Congress should avoid such sweeping domestic content requirements. Firstly, these requirements often become empty virtue-signaling, as trade agreements with many countries nullify such legislation. Bilateral trade agreements with 26 different countries allow those countries' products to be counted in the same way as domestically produced products in Buy American and other domestic content considerations.<sup>86</sup> As a result, new Buy American legislation would have so many exceptions that the "shift" to American companies would be negligible.

Generally, however, broad protectionist regulations make markets less efficient, especially in the already constrained defense industry. Certain items are simply not available from domestic manufacturers. In other cases, foreign-sourced items may be cheaper. Eliminating those sources as an option would therefore increase costs or create supply-chain vulnerabilities by reducing potential sources of components.

There are cases where, for national security reasons, components' country of origin should be regulated. For example, highly classified submarine subsystems and components should not be produced overseas except by America's closest allies. China, which has a history of intellectual property theft, should not produce components for emerging U.S. military or dual-use technologies. Nor should production in countries with insufficient means or dedication to protecting American intellectual property be allowed. The DOD should also carefully consider whether sourcing semiconductors from Taiwan for defense end items poses a national security concern, as access to those semiconductors may be cut off in the case of a war between China and Taiwan. Congress should require the DOD to increase defense supply-chain visibility, and then address specific items whose production needs to be re-shored or countries and actors that should be banned from defense supply chains.<sup>87</sup>

**Recommendation 61: Ban procurement of commercial off-the-shelf drones or unmanned aircraft systems manufactured or assembled by a covered foreign entity, as determined by the Departments of Commerce, Homeland Security, State, or the Director of National Intelligence, or an entity subject to the influence or control by the government of the People's Republic of China or the Chinese Communist Party.** In December 2020, the federal government placed the world's

largest maker of drones, D-Mada Jiang Innovations (DJI), on the entities list. That move followed warnings from independent research firms, federal agencies, and Director of National Intelligence John Ratcliffe on the threat China's collection capabilities pose to the United States and its allies. Chinese corporations are legally obligated to serve the purposes of the Chinese Communist Party, which has used every collection method and form of technology at its disposal to collect or even steal government, corporate, and private data.<sup>88</sup> While placement on the entities list sends a strong signal, it still allows federal agencies and departments to purchase and employ DJI drones manufactured in China. The government should ban both.

The ban should include exceptions for agencies that significantly alter the operating code of these systems to ensure they can no longer feed Beijing. Once the ban is in place at the federal level, the Departments of Defense and Homeland Security should brief state and local entities to compel them to take similar actions.

## Arms Control and International Treaties

**Recommendation 62: Protect and renew the U.S. landmine stockpile.** On January 31, 2020, the Trump Administration correctly canceled the Obama Administration's policy banning anti-personnel landmines (APLs) outside the Korean Peninsula and authorized combatant commanders in all theaters to employ advanced, non-persistent APLs in exceptional circumstances. But in June 2022, the Biden Administration, in turn, cancelled this policy and, against military advice, reinstated the Obama Administration's policy.

Congress should require the DOD to assess the size and reliability of the existing U.S. stockpile of APLs. Congress should ban funding for the destruction of this stockpile—unless required for storage safety reasons—until the DOD certifies that replacing them would not endanger U.S. or allied forces or pose any operational challenges. Finally, Congress should require the DOD to develop, produce, and acquire advanced, non-persistent APLs in sufficient numbers to allow a future Administration to reverse it effectively.<sup>89</sup>

**Recommendation 63: Protect and renew the U.S. cluster munitions stockpile.** In May 2017, Jim Shields, the Army's program executive officer for ammunition, stated that an Obama Administration deadline to stop using cluster munitions by January 2019 created "capability gaps that we are really concerned about." In November 2017, the Trump Administration announced a policy to "retain cluster munitions currently in active

inventories until the capabilities they provide are replaced with enhanced and more reliable munitions.” The U.S. Air Force has since tested a replacement for air-dropped cluster munitions.

Congress should support the November 2017 policy by prohibiting the destruction of U.S. cluster munitions stockpiles—except if required for storage safety reasons—until the DOD studies possible replacements and Congress explicitly authorizes the DOD to resume de-milling. This study should assess the military utility of conventional cluster munitions; provide an inventory of current stockpiles; study past U.S. patterns of cluster munitions use; assess the effects of the closure of Textron’s Sensor Fuzed Weapon line; and appraise the current state of research, production, and deployment of alternatives to conventional cluster munitions.

**Recommendation 64: Oppose the Anti-Personnel Mine Ban Convention (Ottawa Convention), the Convention on Cluster Munitions (CMC), and the Arms Trade Treaty (ATT).** All three treaties would have significant harmful effects on U.S. national security. The Senate has not provided its advice and consent to any of these treaties, and none of them is in the U.S. national interest.<sup>90</sup>

The Obama Administration signed the ATT in September 2013 and transmitted it to the Senate in December 2016 but did not actively seek its ratification. In July 2019, President Trump notified the U.N. that the United States does not intend to become a party to the ATT, thereby “unsigned” the treaty. The Biden Administration, however, has sent mixed signals on the ATT. A State Department official in August 2021 stated that the Administration was considering “the proper relationship of the United States” to the ATT, but the Administration has not so far re-signed it.

The Administration has not taken any action on the CMC, but, citing bad “optics,” has refused to supply cluster munitions to Ukraine for use against invading Russian forces.

The Administration has announced its support for the Ottawa Convention. In June 2022, overruling military objections, the Administration cancelled the Trump Administration’s policy that allowed U.S. forces to employ APLs outside the Korean Peninsula and avowed its desire to move the United States toward full compliance with the Ottawa Convention. It did not, however, state an intention to transmit the convention to the Senate for its advice and consent.

**Recommendation 65: Enforce the FY 2022 NDAA’s measure to end Interpol abuse.** The abuse of Interpol by autocratic nations—part of the wider problem of transnational repression—harms U.S. national security by bringing Interpol into disrepute and making it a less reliable

mechanism for combatting terrorism and transnational organized crime. The FY 2022 NDAA contained Section 6503 on “Transnational Repression Accountability and Prevention.” The landmark provisions in this section declared the sense of Congress that “some INTERPOL member countries have repeated[ly] misused INTERPOL’s databases and processes,” required the United States to support Interpol institutional reforms and requested the censure of repeatedly abusive member countries.

It also required the Attorney General and the Secretary of State within six months to submit a report determining which countries have repeatedly abused Interpol. The report that the Attorney General and the Secretary of State submitted, however, failed to comply with Congress’s intent and ignored all public evidence of Interpol abuse—much of it published by the State Department itself—by finding that no significant Interpol abuse has occurred since 2019.

After pushing for Russia to be suspended from Interpol, the Biden Administration has reversed itself and is now denying the reality of the abuse committed by China, Russia, and other authoritarian regimes that it formerly acknowledged.

Congress should condemn the Attorney General and the Secretary of State for refusing to publish a substantive report in compliance with Section 6503 of the FY 2022 NDAA. It should reiterate its request for such a report, this time requiring that the report draw on all available public evidence, including that already published by the State Department, and state that it will respond with hearings to any failure to produce a substantive report.

In the interim, Congress should in the FY 2024 NDAA publish its own list of regimes that have repeatedly abused Interpol, a list that at a minimum should include China and Russia. Congress should then prohibit any U.S. government department or agency from using Interpol communication from any country it finds to have repeatedly abused Interpol to detain or otherwise deprive an individual of freedom; to remove an individual from the United States; or to deny a visa, asylum, citizenship, other immigration status or participation in any trusted traveler program of the Transportation Security Administration.

Congress should also prohibit any U.S. government department or agency from arresting any individual who is the subject of any Interpol communication without prior verification of the individual’s eligibility for extradition under a valid bilateral extradition treaty for the specified crime or crimes and the issuance of an arrest warrant in compliance with Title 18, Section 3184, of the U.S. Code.<sup>91</sup>

## International Posture

**Recommendation 66: Advance Taiwan’s participation in international organizations.** Section 5518 of the FY 2023 NDAA required the Secretary of State to combat China’s “One China” principle by submitting a strategy to advance Taiwan’s meaningful participation in a prioritized set of international organizations to be selected by the Secretary of State.

This requirement is appropriate and correct, but similar requirements have in the past achieved little. For example, Public Law 114–139 requires the Secretary of State to pursue observer status in Interpol for Taiwan. But in practice, successive U.S. Administrations have done nothing to fulfill this law’s objective. The United States has not withheld funding, spoken publicly to support Taiwan’s applications for observer status, taken any announced actions in Interpol’s executive committee in support of Taiwan, or opposed Interpol’s redefinition of membership criteria in ways that seek to exclude Taiwan.

In the FY 2024 NDAA, Congress should, after assessing the report mandated in Section 5518 of the FY 2023 NDAA, set out specific and annual criteria by which it will assess progress toward advancing Taiwan’s meaningful participation, with metrics for success and sanctions to be applied to the Department of State (via Congress’s control of agency funding) for failure to achieve demonstrable progress.

**Recommendation 67: Direct the DOD to submit a report assessing the risk to U.S. national security of dual-capable life sciences technology transfers, especially biotechnology, to China.** China has one of the world’s most advanced life sciences research and development (R&D) enterprises. Beijing’s national “military-civilian fusion” policy means that work in the life sciences for peaceful civilian ends could support belligerent military, intelligence, and other national security applications and policies. Congress should ensure that U.S. life sciences technology is not transferred to China. The required report should include potential stricter “guardrails” on technology transfers, greater transparency involving any biotechnology transfers, limits on the transfer of genomic and medical data, and more possible oversight of academic and commercial joint R&D in the field of life sciences—especially biotechnology—with Chinese entities. The report should also cover risk involving foreign enterprises cooperating or collaborating with Chinese life sciences entities with the goal of preventing the indirect transfer of important U.S. and foreign technology and industrial processes to the Chinese government.<sup>92</sup>



Washington should also consider possible restrictions on Chinese student visas in fields related to life sciences and other areas of high technology (such as artificial intelligence and quantum information science) and should examine further restrictions to protect U.S. genomic and medical data purchased by or transferred to foreign adversaries, including China. Congress should consider legislation, such as Senator Jim Risch’s (R-ID) Biological Weapons Policy Act of 2021, which seeks to strengthen State Department authorities to prevent biological weapons proliferation; establishes a country team assessment requirement for countries of concern, including China, to prevent the “misuse of life sciences research for military purposes”; prohibits the use of federal funds for gain-of-function research with China and countries of concern; and mandates and requires various oversight reports on government grants in life sciences research and national security concerns and collaboration with China on pathogens, viruses, toxins, biotechnology, and synthetic biology.<sup>93</sup>

**Recommendation 68: Appoint a congressional blue-ribbon commission to assess the Chinese military-related life sciences and biotechnology threats to U.S. national security.** Congress should authorize and fund a six-month commission consisting of outside, non-governmental experts with access to all available intelligence information to assess Chinese military-related and national security-related life sciences R&D. The final report should include public policy recommendations to remediate any conceivable threats. If possible, the report should also be issued in an unclassified format for public consumption.

**Recommendation 69: Direct the DOD to deploy additional non-strategic nuclear weapons to Europe.** Due to Russia’s ongoing belligerence in Europe and its “escalate to deescalate” nuclear strategy, the United States and NATO should consider increasing the number of forward-deployed battlefield nuclear weapons to the European theater. Such a move would provide additional response options for U.S. and NATO policymakers, help close a perceived tactical nuclear deterrence gap with Russia, and provide political reassurance to non-nuclear NATO allies, especially frontline states. NATO allies should fully share the cost of these efforts.

**Recommendation 70: Direct the Defense Intelligence Agency to report in an unclassified manner on the North Korean and Iranian nuclear and missile programs.** The Iranian and North Korean nuclear and missile programs pose a significant national security threat to the U.S. homeland, as well as U.S. regional interests in the Indo-Pacific and the Middle East. As applicable, the report should provide unclassified

judgments on each state's nuclear and missile programs, an evaluation of the current and future nuclear threats posed by them, and the status of their current and evolving nuclear doctrines. The report should also address their space programs, hypersonic weapons, armed drone programs, and bilateral North Korean–Iranian cooperation in these fields and identify foreign assistance to these programs.

**Recommendation 71: Direct the DOD to report on its and allies' readiness against biological and chemical weapons threats.** Within the past several years, the world has witnessed chemical weapons in warfare and attempted political assassinations as well as a global pandemic from a biological pathogen. These events have national security implications that should make chemical and biological warfare (CBW) readiness a top priority of the United States and its allies. As such, the DOD report should assess the CBW readiness of U.S. forces and European and Asian allies, considering potential CBW threats to them from likely adversaries.

**Recommendation 72: Bolster U.S. air and missile defense in the Persian Gulf.** Iran and its proxies have repeatedly launched missile and drone attacks against Saudi Arabia and the United Arab Emirates in the Arabian Sea, Persian Gulf, and Red Sea.<sup>94</sup> With the expiration of the cease-fire in Yemen, hostilities will likely resume. The Pentagon needs to ensure that U.S. air missile defense capabilities are deployed based on continually updated risk assessments. Therefore, Congress should request a detailed assessment in FY 2024 on the missile defense needs for U.S. partners in the Persian Gulf.

**Recommendation 73: Direct the DOD to report on the capabilities of the Lebanese armed forces.** The Lebanese armed forces may be the only state institution not completely compromised by Hezbollah's destabilizing influence, but it faces challenges of its own. The economic crisis in Lebanon has made it difficult to pay and feed soldiers on duty. As a result, military personnel, including high-level officers, are leaving the force at alarming rates.<sup>95</sup> The State Department has already redirected \$67 million in military aid for "livelihood support," but Congress should direct the DOD to assess the operational readiness of the Lebanese armed forces and the degree to which it is penetrated by Hezbollah. If the armed forces were to collapse, Hezbollah could become the lone military force in the country—a development that would not bode well for the United States and its allies in the region.

**Recommendation 74: Direct the DOD to report on Chinese port investment around U.S. military facilities in the Persian Gulf.** Experts warn that Chinese security and surveillance technologies integrated into

“smart port technology” can harness and potentially weaponize data. U.S. forces are stationed at critical U.S. military facilities across the Persian Gulf. To ensure the security of U.S. facilities, the DOD should understand how Chinese 5G technology makes critical systems vulnerable to disruption, manipulation, and espionage.

**Recommendation 75: Clarify American opposition to further European Union (EU) defense integration.** Decades of tacit support for defense integration of EU militaries have resulted in little, if any, additional European defense capability. Rather, these efforts have given false credence to the idea that the United States can and should completely disengage from European security. An independent EU army would undermine transatlantic security and decouple the United States from the legitimate interests it retains in Europe. The European Commission and vocal leaders such as French President Emmanuel Macron have consistently called for a greater EU role in defense. Macron has held fast to this goal even after Russia’s second invasion of Ukraine, stating in September his goal of installing France as an “independent, respected, agile power at the heart of the European strategic autonomy.”<sup>96</sup>

While EU integration efforts have been met by tepid response by allies such as Germany and outright opposition from most Eastern European NATO members, their destructiveness and staying power should not be underestimated. Congress should not be taken in by the EU’s plans for strategic autonomy in defense or its vague promises of benefitting NATO. Russia’s ongoing war against Ukraine underscores the reality that a robust NATO alliance remains the best guarantor of transatlantic security. Even Vladimir Putin, who has expressed support for an independent EU defense identity in the past, clearly recognizes this reality.<sup>97</sup>

The United States should advance a “NATO first” agenda that ensures that American influence in European defense matters. This agenda should also involve allies’ sufficient investment in their own defense—spending at least 2 percent of their gross domestic product.

**Recommendation 76: Further solidify alliances with NATO allies by expanding the Visa Waiver Program (VWP).** The VWP pays security dividends, as the 40 nations in the program share information on serious criminals, terrorists, and lost and stolen passports with the United States in exchange for visa-free travel up to 90 days. In addition, the VWP smooths business travel and tourism and further strengthens the transatlantic bond. Recently, the United States expanded membership to Croatia in September 2021. Today, six European NATO allies remain outside the program: Albania, Bulgaria, Montenegro, North Macedonia, Romania, and Turkey. Congress

should consider expanding membership to include key NATO allies. One possibility is to invite nations with a slightly elevated visa-refusal rate—provided that they have a concurrently small visa-overstay rate. Congress could also evaluate alternative eligibility criteria, such as defense spending by NATO members.

**Recommendation 77: Consider a persistent and continuing presence in Eastern European NATO member states.** Congress should ensure that the United States has adequate ground forces in central Europe to contribute to the mission of deterring Russian armed aggression. This presence should take into account an expectation of enhanced contributions by some NATO allies and the potential denuding of Russian military capability from its aggressive war against Ukraine. The United States ought to have at least two Army combat brigade equivalents in central Europe for training and exercises with allies as well as part of the forward-deployed deterrence in central Europe. These can be rotational forces or deployed, but the presence, the footprint, should be persistent. In addition, a deployed corps headquarters that could provide a capacity to mobilize a larger conventional force, if needed, should be in Europe. Russia may indeed rebuild its conventional forces over time, but U.S. expectations for Europe’s conventional forces will evolve as well. In the future, the United States can adjust as needed, particularly if the United States retains total active, reserve, and National Guard land force capability sufficient to meet the needs of theater commanders.

**Recommendation 78: Expand the provision requiring a report on China’s activities in Latin America and the Caribbean to include Iran and its allies and update the criteria.** The FY 2023 NDAA required the State Department to report (coordinating with the DOD and others) on China and Russia’s foreign malign influence in Latin America and the Caribbean.<sup>98</sup> However, the act does not mention U.S. adversaries in the region, such as Hezbollah. An updated report should evaluate Iranian incursions in Cuba and Venezuela and their military, intelligence, or paramilitary assets in the region. The extent to which these states are manipulating regional economic factors, legacy and social media, and other civil society actors should also be studied. A future report should identify specific violations of international or local standards by Chinese state-affiliated firms. It should also detail China’s efforts to reshape commercial supply chains in the region to advance their strategic objectives, and it should analyze international financial institutional loans and other commercial benefits to Chinese state-affiliated enterprises.

**Recommendation 79: Strengthen the Plan for Strategic Competition Initiative to counter illicit oil and rare-earths trafficking in the Western Hemisphere and Africa.** The FY 2022 NDAA included a provision requiring the Secretary of Defense to develop a plan for an initiative to support strategic competition in the areas of responsibility under U.S. Southern Command (USSOUTHCOM) and U.S. Africa Command (AFRICOM). A similar plan should be required in the FY 2024 NDAA to ensure an updated outlook of geostrategic competitors and their prospective plans in both regions. The DOD should consider the NDAA-mandated reports on China and geostrategic competitors in the region in its plans. It should evaluate the military resources and strategies in place to counter illicit trafficking of oil and minerals in the region and the extent to which geostrategic competitors assist in these operations. The plan should identify existing gaps in efforts to target these illicit operations, consulting with agencies responsible for similar counter-narcotics efforts.

**Recommendation 80: Require the DOD and State Department to report on China’s activities in the Panama Canal, the Caribbean, and the Strait of Magellan and make recommendations on U.S. capabilities and the resources required to respond.** The FY 2023 NDAA required a report from the DOD on U.S. and partner military capabilities in the Caribbean.<sup>99</sup> This reporting should be updated to include U.S. military capabilities in the Panama Canal and the Strait of Magellan and specific reporting on China’s diplomatic, military, and economic activities in the three areas.

**Recommendation 81: Significantly increase support for USSOUTHCOM’s intelligence, surveillance, and reconnaissance (ISR) and security cooperation capacity.** As geostrategic competitors and transnational criminal organizations expand operations increasingly out of sight absent ISR capabilities, consistent support for ISR funding should be a priority. The FY 2024 budget should continue the upward funding trend on traditional ISR, meeting USSOUTHCOM’s requests. It should also expand resources for non-traditional ISR, including artificial intelligence. The option to reincorporate an ISR transfer fund should also be evaluated. Security cooperation resources also remain underfunded, an especially important area given that the command lacks assigned forces and other capabilities. Congress should ask USSOUTHCOM and the DOD to outline what a shift in resources to confront China’s growing activities would require. USSOUTHCOM should also outline how it can increase its cooperation with U.S. Indo–Pacific Command and outline Latin America’s strategic relevance to competition in the Indo–Pacific.

## Conclusion

The 2024 NDAA can play a critical role in helping the U.S. Armed Forces continue their transformations to deter great-power aggression and prepare to fight and win the nation's future wars. This NDAA can have tremendous signaling power to China, Russia, and other potential aggressors in the world. Issues such as military recruitment, shipbuilding and ship maintenance, and nuclear enterprise investment impact national defense today and will continue to impact readiness for decades. The time Congress spends deliberating these issues now is time well spent.

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