



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

July 10, 2023  
(House Rules)

## **STATEMENT OF ADMINISTRATION POLICY**

### **H.R. 2670 – National Defense Authorization Act for Fiscal Year 2024**

(Rep. Rogers, R-AL, and Rep. Smith, D-WA)

The Administration strongly supports enactment of a National Defense Authorization Act (NDAA) for a 63<sup>rd</sup> consecutive year and is grateful for the strong, bipartisan work of the House Armed Services Committee on behalf of America’s national defense.

The Administration looks forward to continuing to work with the Congress to set appropriate and responsible levels of defense and non-defense spending to support the security of the Nation, consistent with the Fiscal Responsibility Act (FRA). Alongside a strategically sound defense budget, a strong economy and investments in diplomacy, development, and economic statecraft are critical to ensuring that the Nation is positioned to respond to the myriad of national security challenges we face today and in the future.

The Department of Defense’s (DoD) Fiscal Year (FY) 2024 budget request was informed by the 2022 National Defense Strategy (NDS), which calls on DoD to advance four key priorities: defend the homeland, deter strategic attacks, deter aggression while being prepared to prevail in conflict when necessary, and build a resilient Joint Force and defense ecosystem.

This year marks the 50<sup>th</sup> anniversary of America’s All-Volunteer Force. It also marks the 75<sup>th</sup> anniversaries of the military’s desegregation and women’s integration into the Armed Forces. Taking care of the health, safety, and economic security of the Total Force – including the All-Volunteer Force, their families, and DoD civilian employees and contractors – is vital to ensuring a resilient military today and in the future. It is an Administration priority, and President Biden appreciates support for the 5.2 percent pay raise for military service members.

In a time of rapidly evolving military activities and capabilities by our competitors – accelerated by emerging technologies and intensified by the potential for new threats to strategic stability – America’s network of allies and partners continues to act as a force multiplier in support of U.S. national defense. Investments authorized in the NDAA in support of the Pacific Deterrence Initiative and the European Deterrence Initiative will help address the changing global landscape and prepare the country for future challenges and threats.

The Administration looks forward to working with the Congress to address its concerns, a number of which are outlined below.

**Repeal of Position of Director of Cost Assessment and Program Evaluation (CAPE).** The Administration strongly opposes section 902, that would abolish CAPE, the backbone of DoD's analytical workforce. Its independent, unbiased analysis ensures that taxpayer dollars are spent effectively and responsibly, and its cost estimates have helped reduce acquisition program cost breaches from over 6 per year to just over 2 per year, and median cost growth plummeted from 27 percent to only 3 percent, since its creation in 2009. The dissolution of CAPE would lead to negative consequences as the Secretary would be left without the analysis necessary to build a strategy-driven budget across the Joint Force. CAPE provides independent, fact-based evaluation of competing resource requests from across the Department and executes critical cross-cutting, joint strategic analysis.

**Enabling Future Capability Transition.** The 2022 NDS requires the United States to optimize the Joint Force and invest in capabilities that ensure U.S. warfighters maintain enduring advantages. DoD is committed to investing in equipment that is survivable, lethal, and resilient, and that makes responsible use of taxpayer dollars. This requires DoD to transition from capabilities that would not be survivable, lethal, and resilient in a future fight.

- **Availability of Funds for Retirement or Inactivation of Landing Dock Ships and Guided Missile Cruisers.** The Administration strongly opposes section 1017, which would limit the Navy's flexibility in exercising authority to decommission ships, including those that are not yet beyond the expected service life. Divesting ships on a case-by-case basis, as current law permits, allows the Navy to prioritize investments.
- **Nuclear-Armed Sea-Launched Cruise Missile.** The Administration strongly opposes continued funding for the nuclear sea-launched cruise missile (SLCM-N) and its associated warhead. The President's 2022 Nuclear Posture Review concluded that SLCM-N, which would not be delivered before the 2030s, has marginal utility and would impede investment in other priorities. Further, deploying SLCM-N on Navy attack submarines or surface combatants would reduce capacity for conventional strike munitions, create additional burdens on Naval training, maintenance, and operations, and could create additional risks to the Navy's ability to operate in key regions in support of our deterrence and warfighting objectives. The U.S. has sufficient current and planned capabilities for deterring an adversary's limited nuclear use through conventional and nuclear armaments, including the W76-2 low-yield submarine-launched ballistic missile warhead, the current Air-launched Cruise Missile, its successor (the Long-range Standoff weapon), and F-35A dual-capable aircraft that can be equipped with B61-12 nuclear gravity bombs. Further investment in SLCM-N would divert resources and focus from higher modernization priorities for the U.S. nuclear enterprise and infrastructure.
- **Next Generation Air Dominance (NGAD).** The Administration strongly opposes the \$550.6 million reduction for NGAD which would delay the Engineering and Manufacturing Development contract award, reduce industry staffing on the current contracts, and require deferral of other related efforts planned in FY 2024. Additionally, given the intent to leverage NGAD software development for direct support to the Collaborative Combat Aircraft (CCA) program, the proposed reductions to NGAD would increase the risk to and cost of the CCA program.

- Limitation on Availability of Funds for Retirement of B83-1 Nuclear Gravity Bombs. The Administration opposes section 1639, which would limit availability of funds for retirement of B83-1 nuclear gravity bombs. This would constrain the Department's ability to adequately retire the program. It would also require additional funding to sustain and maintain the program, which would inhibit the Administration's ability to resource other modernization programs, including follow-on, modern capabilities that may be better suited for defeating an adversary's hard and deeply buried strategic targets.
- Link Plumeria. The Administration strongly opposes the \$1.1 billion reduction to Project 2937 that supports the Navy's F/A-XX program. The language makes it impossible for the Navy to satisfy a critical element of the NDS in support of Joint Force priorities. The 70 percent reduction breaks the program and leaves the acquisition strategy unexecutable. Additional details can be provided at higher classification.

**Space National Guard.** The Administration continues to strongly oppose the creation of a Space National Guard. Instead, the Administration endorses the Space Force Personnel Management Act (SFPMA) to combine existing space forces efficiently and effectively, and allow part-time service within the Space Force, without the additional overhead and bureaucracy of a separate component. The SFPMA enables unity of command over all Department of the Air Force space forces, maximizes flexibility for organize, train, and equip and operational responsibilities, and ensures access to part-time forces for surge capacity. National security space missions are Federal in nature and global in impact. The existing National Guard space equipment was procured and is sustained with Federal funding. Further, Air National Guard space missions are overwhelmingly housed on Federal land, and are largely maintained by the regular Air and Space Forces. The Administration looks forward to working with the Congress to enact the SFPMA and urges the Congress not to create a new bureaucracy with far-reaching and enduring implications and expense.

**Temporary Extension of Authority to Provide Security for Former Department of Defense Officials.** The Administration thanks the committee for including section 1112, which extends current authority to provide security for former and retired DoD officials. However, the elevated risk against former and retired officials requires the additional flexibility over longer periods of time provided by the Administration's legislative proposal. We strongly encourage the Congress to adopt the Administration's requested amendments.

**Shipbuilding.** The Administration is disappointed that the committee failed to authorize the Administration's full request for shipbuilding, providing nearly \$600 million less than the \$32.9 billion requested in the FY 2024 President's Budget. The Administration strongly opposes the \$1.5 billion reduction in authorized funding for the Submarine Tender Replacement (AS(X)). Further, the Administration opposes the \$750 million in unrequested incremental funding authorized to procure the next San Antonio-class amphibious warfare ship (LPD-33) in FY 2024, especially considering the shipbuilding plan would not require LPD-33 until FY 2025.

**New START Treaty Notifications.** The Administration strongly opposes section 1234, which would prohibit the use of certain Department funds from being used to provide the Russian Federation with "notifications as required by the New START Treaty." While the United States has, as of June 1, ceased transmitting New START Treaty notifications to the Russian Federation as a lawful countermeasure to Russia's ongoing violations of the treaty, section 1234 would unduly

constrain the ability of the Executive Branch to reverse such countermeasures. The United States continues to send two types of notifications – on ballistic missile launches and on major strategic exercises – required separately under two older agreements (from 1988 and 1989, respectively) that remain in force.

**Missile Defense.** The Administration strongly opposes section 1662, which would expand U.S. homeland missile defense policy in a way that would signal intent to develop U.S. homeland missile defenses to counter large intercontinental-range, nuclear missiles threats such as those fielded by the People’s Republic of China (PRC) and Russia. Implementing the policy in section 1662 would be both cost prohibitive and not technically executable. Also, establishing such a policy would undermine U.S. strategic deterrence with the PRC and Russia and overturn two decades of well-established missile defense policy. The Administration also strongly opposes section 1663, which would require a program to achieve an initial operational capability for the Glide Phase Interceptor (GPI) by 2029 and full operational capability by 2032. The planned GPI program of the Missile Defense System has undergone multiple reviews by the Department and is currently funded sufficiently to keep pace with new threat-related technology developments. Finally, the Administration opposes section 1668, which would require the Secretary to rescind the memorandum on missile defense governance that serves to reduce risk in missile defense development and promote the effective transfer of programs to the Services.

**Ukraine and Afghanistan Special Inspector Generals.** The Administration opposes section 1222, which would establish another inspector general to oversee Ukraine assistance. DoD continues to partner with the DoD Inspector General (IG), the Government Accountability Office (GAO), and the relevant congressional committees to conduct the critical task of ensuring accountability for the assistance that the Congress authorized and appropriated for Ukraine. The DoD IG and GAO are currently undertaking multiple investigations regarding every aspect of this assistance – from assessing the DoD’s processes for developing security assistance requirements to evaluating the end-use monitoring processes for delivered assistance – at the request of the Congress. Similarly, the Administration opposes section 1220, which would significantly expand the authority of the Special Inspector General for Afghanistan Reconstruction to conduct oversight of amounts appropriated or otherwise made available for “assistance for the benefit of the Afghan people.” This expansion is both unnecessary and unprecedented, as oversight of U.S. assistance for the benefit of a country’s people is already provided by the Inspectors General for the Department of State and United States Agency for International Development.

**Reprioritization of Military Construction Funding to Unrequested Projects.** The Administration opposes the bill’s realignment of military construction funding from priority projects to other projects. Contrary to the Administration’s fiscally responsible policy to fully fund executable projects, the bill proposes to fund 24 military construction projects incrementally. This would effectively create an unfunded obligation of almost \$2.5 billion needed to successfully execute these projects over time, would divert those funds to projects that either are not executable in FY 2024 or were not higher priorities than the requested projects, and would make that amount unavailable for other defense requirements by encumbering that amount in future fiscal year toplines.

**Adaptive Engine Transition Program (AETP).** The Administration strongly opposes the authorization of \$588.4 million for the technological maturation and risk reduction of the AETP. There are currently no plans to transition AETP engines to a program of record. The F135 ECU and F-35 cooling enhancements are more affordable and a common solution across all three F-35 variants. Continued funding for AETP would defer the transition of a skilled workforce to the Next Generation Adaptive Propulsion (NGAP) program. This, in turn, would increase the risk that NGAP prototype test results would not be available in time for the NGAD programs and that future NGAD platform capability would be compromised by legacy propulsion constraints.

**Modification of Vetting Procedures and Monitoring Requirements for Certain Military Training.** The Administration strongly opposes section 1043 because it would limit the Secretary's ability to grant exemptions based on functional equivalence exclusively to the nationals of North Atlantic Treaty Organization (NATO) member nations. The Department hosts many foreign nationals outside the NATO alliance and excluding key allies and partners places DoD in the undesirable situation of having lists of favored countries, which creates foreign policy challenges and concerns.

**Provisions Related to the COVID-19 Vaccine.** The Administration opposes an exemption from the requirement to repay tuition at military Service Academies for those who refused to receive a vaccination against COVID-19. Section 564 sets a dangerous precedent that not following lawful orders is an option for service members, which will be deleterious to good order and discipline as well as unit cohesion. This exemption also would have a negative budgetary impact. The Administration similarly objects to section 525, Protections for Members of Certain Armed Forces Who Refuse to Receive Vaccinations Against COVID-19, for the same reasons. Additionally, the proposed language would prevent the Secretary from taking appropriate action in the future should a new strain of COVID-19 again require vaccination for force health protection. Furthermore, the Administration objects to section 526, Reviews of Characterization of Administrative Discharges of Certain Members on the Basis of Failure to Receive COVID-19 Vaccine, because it would place the review of petitions concerning the characterization of discharge for persons who failed to receive the vaccine above the consideration of all other Boards of Correction of Military Records actions, which could include pressing issues related to military sexual trauma, PTSD related to military service, and matters related to pay and benefits.

**Diversity Equity, Inclusion, Access (DEIA) and other Relevant Provisions.** The Administration strongly opposes the House's sweeping attempts (sections 364, 523, 566, 595, 596, 598, 904, and 1046) to eliminate the Department's longstanding DEIA efforts and related initiatives to promote a cohesive and inclusive force. As articulated in the 2022 NDS, one of the Department's top priorities is building a resilient Joint Force and defense enterprise. DoD's strategic advantage in a complex global security environment is the diverse and dynamic talent pool from which we draw. We rely on diverse perspectives, experiences, and skillsets to remain a global leader, deter war, and keep our nation secure. Moreover, DoD is committed to developing and maintaining a dignified, respectful, and safe workplace. Legislation that reduces DoD's ability to create a positive work environment and fully leverage the best our nation has to offer puts the Department at a strategic disadvantage.

**Certain Disclosure Requirements for University Research Funded by the Department of Defense.** The Administration strongly opposes Section 214 which would impose a significant increase in disclosure requirements for university research funded by DoD. Disclosure requests in this provision are duplicative of current law and require additional information from all research performers. Section 214 would make public detailed information on all Department research performers that could create an inadvertent national security risk. The Department employs rigorous security and data control standards to protect research security without harming the Department's access to top talent and innovations or introducing additional administrative burden on research institutions. Section 214 could jeopardize the Department's ability to fund universities in States with nondiscrimination laws that prohibit citizenship and nationality reporting. Section 214 could also deter the ability to attract the best and brightest foreign scientists from working with the Department.

**Pilot Program on Cardiac Screenings for Military Accessions.** The Administration strongly opposes section 528, which would increase the cost of and time needed for screening individuals entering military service by establishing a pilot program to provide mandatory electrocardiograms during the accessions process. The requirement may restrict the ability to effectively screen and process applicants at Military Entrance Processing Stations and establishes reporting and screening requirements that are unnecessary for the target age of the recruiting population.

**Treatment of Certain Records of Criminal Investigation & Military Justice Matters.** While the Administration welcomes section 532(c), which would give the military services' Offices of Special Trial Counsel the discretion to consider cases for certain covered offenses involving incidents alleged to have taken place before December 27, 2023, the Administration strongly opposes section 533 on two bases. First, its implementation would upend military criminal investigation practices and diverge sharply from civilian practice, harming information sharing with other Federal and State law enforcement agencies. The section's language is inconsistent with the distinction between "titling" and "indexing" as discrete investigative actions, complicating criminal record-keeping along with DoD contributions to Federal law enforcement databases, some of which are based on probable cause, not convictions. The resulting constraints on recording and sharing this information would endanger public safety. Second, the section would interfere with accountability efforts, including those recommended by the Independent Review Commission on Sexual Assault in the Military, by imposing new, unwise, or incorrect restrictions on administrative separations. For example, the provision would prevent an offense addressed through non-judicial punishment under Article 15 of the Uniform Code of Military Justice from being used to establish a pattern of behavior and subsequently to support involuntary separation, making it easier for repeat minor offenders to remain in the military.

**Establishment of Major Force Program (MFP) for Nuclear Command, Control, and Communications Programs (NC3).** The Administration opposes section 1631, which would require establishment of an MFP for NC3. This would be administratively burdensome and disruptive to the current programming and execution of NC3 modernization programs. Performing a complicated extraction of hundreds of embedded program elements and budget lines from across multiple MFPs would incur administrative burden, break existing processes, and most importantly delay ongoing modernization and improvement efforts.

**Modification of Authority to Purchase Used Vessels Under the National Defense Sealift Fund.**

The Administration remains committed to immediate recapitalization of the sealift fleet to project power by delivering Army and Marine Corps equipment using the most cost-effective strategy of procuring used commercial ships. The Administration strongly urges support to provide the Secretary with the discretionary authority to purchase foreign-built, used vessels without limitation on the number of vessels in order to purchase vessels at the rate required to recapitalize the Ready Reserve Force.

**Significant Foreign Assistance and Policy Provisions.** The Administration is concerned that sections such as 1201, 1242, 1316, 1804, and 2808 do not include a requirement for Secretary of State concurrence and so would provide insufficient means for the Secretary of State to provide input to ensure foreign assistance or engagement is carried out in a manner consistent with foreign policy priorities.

**Prohibition on Funding for the Global Engagement Center.** The Administration opposes the provision in section 1243 which prohibits DoD from making funds available for the Global Engagement Center. DoD funding, including occasional transfers to GEC, has previously proven crucial at promoting government efforts to combat foreign propaganda and disinformation overseas.

**Domestic Content Requirements.** The Administration appreciates section 869, which supports the President's executive order signed in 2021 that directed the increase of domestic content thresholds for government procurement, including major defense acquisition programs, ramping up to a final target of 75 percent in 2029.

**Guantanamo Bay Detention Facility (GTMO) Prohibitions.** The Administration strongly opposes sections 1031, 1032, and 1033, which respectively would extend the prohibitions on the use of funds to: transfer GTMO detainees to the United States; construct or modify facilities in the United States to house transferred GTMO detainees; and transfer GTMO detainees to certain countries. These provisions would interfere with the President's ability to determine the appropriate disposition of GTMO detainees and to make important foreign policy and national security determinations regarding whether and under what circumstances to transfer detainees to the custody or effective control of foreign countries.

**Afghanistan Special Immigrant Visas (SIV).** The Administration remains steadfast in its commitment to resettle Afghans who have supported our mission in Afghanistan for the past two decades. Since the Congress passed the Afghan Allies Protection Act in 2009, the U.S. Government has used the Afghan SIV Program to resettle over 100,000 Afghans and their family members in the U.S. In bipartisan support of this effort, the Congress has continued to increase the Afghan SIV cap annually. However, despite the Administration's request to further increase the SIV cap in FY 2024 by 20,000 and to extend the SIV program beyond December 31, 2024, the Committee-reported NDAA bill does not provide for such an increase or extension. The Administration strongly urges the Congress to continue to demonstrate our commitment to our Afghan partners by extending the program beyond 2024 and by increasing the Afghan SIV cap in the final FY 2024 NDAA to ensure a sufficient number of visas are available as processing throughput increases.

**Prohibition On Computers or Printer Acquisitions Involving Entities Owned or Controlled by China.** While the Administration appreciates the focus on acquisition security in section 832, this provision would put in place an undue burden on the Department. The Administration is confident in its ability to apply a whole-of-government risk-based approach to IT Federal purchases.

**Federal Contractor Disclosure of Greenhouse Gas Emissions.** The Administration opposes section 1822, which prohibits use of funds authorized to be appropriated to be used to recommend or require submission of certain emissions and climate data for Federal contract offers. The provision prevents DoD from exercising due diligence in assessing risks to potential contract awardees, counter to the interests of U.S. taxpayers.