



# EXPLAINER

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## Comparison of the House and Senate FY2024 National Defense Authorization Acts: A Primer

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### Introduction

The National Defense Authorization Act (NDAA) is annual legislation that authorizes funding and sets policies for the Department of Defense (DOD), nuclear programs at the Department of Energy (DOE), and other defense activities at other federal agencies. Unlike an appropriations bill, the NDAA does not give the Pentagon any money. The House of Representatives Fiscal Year (FY) 2024 NDAA is the first under new Republican leadership since 2018. The right-wing faction of the Republican Conference, the House Freedom Caucus, heavily influenced the NDAA's content, using the bill as a vehicle to advance their ideological priorities and domestic agenda.

At the time of this writing, both the House and Senate have completed consideration of each chamber's NDAA. Conference (explained below), which has yet to be announced at the time of this publication, will reconcile the differences between the two bills. This explainer overviews key developments and policies passed in each chamber's NDAA.

### House Armed Services Committee

On June 21, 2023, the House Armed Services Committee (HASC) [marked up H.R. 2670](#), the House NDAA, which authorizes \$886 billion for Pentagon spending, nuclear weapons programs at the Department of Energy, and other defense-related programs. The mark-up considered 800 amendments to the bill and ranged in topics from Pentagon spending; Congressional War Powers; weapons transfers from the Pentagon; attacks on abortion rights, reproductive care, diversity, equity, and inclusion (DEI) efforts, and LGBTQIA+ rights; China; and Ukraine. Some of the amendments and provisions HASC adopted include:

- Rep. Elissa Slotkin's (D-MI-07) [amendment](#) prohibits the Pentagon from procuring items that contain PFAS, a harmful chemical known to cause many health problems, such as cancer.
- Rep. Matt Gaetz's (R-FL-01) [amendment](#) requires the Pentagon to submit a report on the cost of teaching critical race theory (CRT) in the military.
- Rep. Matt Gaetz's (R-FL-01) and Rep. Mike Waltz's (R-FL-6) [amendment](#) prohibits funds from being used to teach CRT.

- Rep. Matt Gaetz's (R-FL-01) [amendment](#) eliminates the position of the Chief Diversity Officer.
- Rep. Doug Lamborn's (R-CO-05) [amendment](#) allows the [Nuclear-Armed Sea-Launched Cruise Missile](#) (SLCM-N) and its accompanying warhead to become a "program of record" at the Pentagon, meaning it will have continued budget support. This program was included in a list of President Biden's [proposed cuts](#) in his FY2023 defense budget proposal.
- Rep. Matt Gaetz's (R-FL-01) and Rep. Ronny Jackson's (R-TX-13) [amendment](#) prohibits spending funds on drag shows at military bases.
- Rep. Veronica Escobar's (D-TX-16) [amendment](#) changes TRICARE (the health care program for active-duty members of the U.S. military, retirees, and their families) policies so that service members can access contraception without a copay.
- Rep. Ronny Jackson's (R-TX-13) [amendment](#) requires a study on the feasibility of imposing a naval blockade of fossil fuel shipments to China if it invades Taiwan. This could escalate tensions with China and unnecessarily lead to war.

After a more than 12-hour long markup, HASC passed H.R. 2670 by a 58-1 vote. Rep. Ro Khanna (D-CA-17) was the only vote against it.

## House Floor Consideration

The House considered over 300 amendments during floor consideration of H.R. 2670 and adopted ones that would restrict abortion access, deny gender-affirming care, and restrict or eliminate DEI efforts in the military. DEI efforts in the military are critical given the military's [history](#) of discrimination and extremist recruitment of veterans. Some of these adopted Floor amendments, as well as amendments on other matters, include:

### Pentagon Spending/Costs/Transparency

- Rep. Jamaal Bowman's (D-NY-16) [amendment](#) mandates that the Pentagon publicly disclose the costs of its overseas military footprint.
- Rep. Sara Jacobs' (D-CA-51) [amendment](#) mandates that the Pentagon provide the public and Congress with official notice when it withholds reports. This amendment will provide more transparency into the operations of the Pentagon, an agency that receives over half of the discretionary budget.
- Rep. Ralph Norman (R-SC-05), Rep. Lloyd Doggett (D-TX-37), and Rep. Eli Crane's (R-AZ-02) [amendment](#) requires the Pentagon to disclose to taxpayers the costs of its projects.

### Pentagon Audit

- Rep. Barbara Lee (D-CA-12) and Rep. Mark Pocan's (D-WI-02) [amendment](#) requires the Pentagon to disclose efforts it is taking to pass an audit.
- Rep. Ralph Norman's (R-SC-05) [amendment](#) returns 1.5 percent of the budget of any Pentagon agency to the Treasury Department for deficit reduction, if that agency fails to pass an audit.
- Rep. Andy Biggs' (R-AZ-05) [amendment](#) mandates that the Pentagon perform an audit. If it fails to perform one, then its budget will decrease by .5 percent.

The Pentagon conducted its first audit in 2018, which it failed and [failed](#) the subsequent four audits it conducted.

### **Military Support and Military Sales Abroad**

- Rep. Mike Gallagher's (R-WI-08) [amendment](#) requires the Secretary of Defense to identify "theaters of operation" (essentially regions around the world, where U.S. military presence and operations is "necessary") and give the President the power to prioritize the distribution of defense articles and foreign military sales to countries identified in these "theaters."

### **Military Sales to Israel**

- Rep. Cory Mills' (R-FL-07) [amendment](#) requires the Secretary of Defense to provide a report on expediting fighter aircraft sales to Israel.

### **Iran**

- Rep. French Hill's (R-AR-02) [amendment](#) requires the Secretary of Defense to submit a report on Iran's threat to the U.S. and its allies. This rhetoric needlessly inflames tensions and makes diplomacy with Iran more difficult..
- Rep. Kathy Manning's (D-NC-06) [amendment](#) requires the Secretary of Defense to report on the threat posed by Iran's Islamic Revolutionary Guard Corps (IRGC) to Europe. This amendment will increase tensions with Iran, make diplomacy more difficult, and amplify a platform of the Trump Administration that designated the IRGC as a terrorist organization.
- Rep. Scott DesJarlais' (R-TN-04) [amendment](#) prohibits any nuclear agreement with Iran that has not received explicit Congressional approval.

### **China/Taiwan**

- Rep. Raja Krishnamoorthi's (D-IL-08) and Rep. Mike Gallagher's (R-WI-08) [amendment](#) expresses a sense of Congress that the U.S. is committed to supporting and improving Taiwan's self-defense.
- Rep. Michelle Steel's (R-CA-45) and Rep. Rob Wittman's (R-VA-01) [amendment](#) requires the Pentagon to report on Taiwan's defense needs and the U.S.'s ability to loan or lease defense articles to meet these needs.

### **Ukraine**

- Rep. Thomas Massie's (R-KY-04) [amendment](#) creates a "Special Inspector General for Ukraine Assistance" to oversee all aid (military, humanitarian, and economic) appropriated to Ukraine.

### **Special Drawing Rights (SDRs)**

- Rep. Warren Davidson's (R-OH-08) [amendment](#) opposes any potential weight increase of China's Yuan at the International Monetary Fund (IMF) that is used to determine the value of [SDRs](#).

### **Abortion**

- Rep. Ronny Jackson's (R-TX-13) [amendment](#) prevents the Secretary of Defense from paying for or reimbursing abortion expenses.

## Gender-Affirming Care

- Rep. Matt Rosendale's (R-MT-02) [amendment](#) prohibits TRICARE and the Pentagon from paying for gender-affirming care.
- Rep. Ralph Norman's (R-SC-05) [amendment](#) prohibits gender-affirming care under the [Exceptional Family Member Program](#).

## Diversity, Equity, and Inclusion

- Rep. Chip Roy's (R-TX-21) [amendment](#) prevents funding for a Chief Diversity Officer or Senior Advisors for Diversity and Inclusion at the Pentagon.
- Rep. Chip Roy's (R-TX-21) [amendment](#) prohibits promoting the idea that:
  1. Any race is superior or inferior to any other race, color, or national origin.
  2. The U.S. is racist.
  3. The Declaration of Independence and the Constitution are racist documents.
  4. An individual's moral character or worth is determined by the individual's race, color, or national origin.
  5. An individual is racist or oppressive, by virtue of their race.
  6. An individual bears responsibility for the actions committed by other members of the individual's race, color, or national origin.
- Rep. Eli Crane's (R-AZ-02) [amendment](#) ensures that participation in education on race is not a requirement for hiring, promotion, or retention of Pentagon employees or members of the Armed Services.
- Rep. Ralph Norman's (R-SC-05) [amendment](#) eliminates DEI offices.
- Rep. Eric Burlison's (R-MO-07) [amendment](#) prevents the Pentagon from establishing a new DEI administrator and filling current DEI vacancies.

## 1033 Program

- Rep. Mike Waltz's (R-FL-6) [amendment](#) allows the Pentagon to transfer excess controlled equipment to federal and state agencies under the [1033 program](#).

## Afghanistan

- Rep. Scott Perry's (R-PA-10) [amendment](#) prohibits sanctions relief on Afghanistan, unless authorized by Congress.

## Fourth Amendment and Privacy Protections

- Rep. Sara Jacobs (D-CA-51) and Rep. Warren Davidson's (R-OH-08) [amendment](#) upholds the Fourth Amendment and protects American citizens and U.S. residents' privacy by requiring a warrant to access data or information on web browsing and internet activity.

H.R. 2670 passed on a 219-210 vote—a slim margin for a bill that always received strong bipartisan support, usually over 350 votes in favor. Because of the egregious measures limiting abortion rights, attacking trans rights, and restricting inclusion efforts, many Democrats, who typically vote in favor of the NDAA, voted against it this year. When the final text of the legislation became clear, in particular, the New-Democratic Coalition (which describes itself as “[pro-economic growth, pro-innovation, and fiscally responsible policies](#)”) [stated](#) it would vote against it; all ranking leadership on HASC—including HASC ranking member Adam Smith

(D-WA-09) — [stated](#) they would vote against the bill; and Democratic leadership put out a [statement](#) that Democrats urge a no-vote.

### Senate Armed Services Committee

The Senate Armed Services Committee (SASC) marked up [S.2226](#), the Senate version of the FY2024 NDAA, on June 23, 2023. The SASC markup occurred, as usual, behind closed doors, so there is less information on amendments and discussions. A few provisions of the SASC bill include:

- Authorize \$886 billion for Pentagon spending, nuclear weapons programs at the Department of Energy, and other defense-related programs.
- Train, advise, and provide institutional capacity-building to Taiwan's military.
- Increase the pay for servicemembers and civilian employees by 5.2 percent.
- Support the Pentagon's funding request for naval vessels, combat aircraft, armored vehicles, weapon systems, and munitions.
- Authorize the Navy to procure 10 [Virginia-class submarines](#) under multi year contracts.
- Reduce the total number of fighter aircraft the Air Force is required to maintain from 1,145 to 1,112, and allow the Air Force to retire 42 [A-10](#) aircraft in FY2024.
- Establish and fully fund a Pentagon-National Nuclear Security Administration (NNSA) joint program to further develop the SLCM-N to address China's nuclear breakout and Russia's aggression.

### Senate Floor Consideration

On July 19, 2023, the Senate began its floor consideration of S. 2226. Senate floor proceedings do not operate under a rule as the House does, but generally via [unanimous consent](#). In the case of S. 2226, there were over 900 amendments offered and 121 adopted. Some of the amendments that were adopted include:

- Sen. Kaine's (D-VA) [amendment](#) prevents the president from withdrawing the U.S. from NATO without Senate consent or an Act of Congress.
- Sen. Blackburn's (R-TN) [amendment](#) funds mobile mammography care for female veterans.
- Sen. Rounds' (R-SD) [amendment](#) prevents certain countries from purchasing land in the U.S. This amplifies [racist property ownership laws](#) being proposed and enacted across the country, that discriminate against people of certain ethnicities.
- Sen. Warnock's (D-GA) [amendment](#) shields members of the Armed Services from predatory debt collector methods, such as harassment.
- Sen. Barrasso's (R-WY) [amendment](#) increases domestic nuclear fuel production.
- Sen. Hawley's (R-MO) [amendment](#) expands protection and compensation claims under the [Radiation Exposure Compensation Act](#) and improves compensation for workers in uranium mining.
- Sen. Young's (R-IN) [amendment](#) requires the Pentagon to pass a clean audit.

On July 27, 2023, the Senate passed S. 2226 by a 86-11 vote.

## Conference

Now that the House and Senate have each passed their own versions of the FY2024 NDAA, the two chambers must reconcile the differences through a [conference committee](#), where members from each chamber - usually those on HASC and SASC - negotiate the differences between the two pieces of legislation. Sometimes a formal conference committee is not announced, and each chamber's leadership and relevant members, such as those on HASC and SASC, meet informally and behind closed doors to conference the two bills. Once an agreement is reached, the bill is referred to as a conference report. Each chamber then votes on the conference report (a conference report can be debated in either chamber, but cannot be amended), and once it passes, it goes to the President's desk.

This year the House and Senate NDAA bills are starkly different. The Senate bill does not include harmful measures limiting abortion rights, LGBTQIA+ rights, or attacking DEI efforts, as the House bill does. Conference negotiations will likely address the reality that Democratic opposition to these provisions in the final bill would risk the NDAA—a “[must-pass](#)” bill—not passing. Additionally, White House National Security Advisor, Jake Sullivan, stated that the House NDAA is “[never getting to the President's desk](#),” signaling the Administration's concern that House Republican leadership turned a bill meant to bolster America's “defense” into one that advances a domestic right-wing agenda.

## Pentagon Topline

Another development that makes this year's NDAA stand out from past ones is the Pentagon topline. Usually, both the House and Senate pass an NDAA that increases Pentagon spending beyond the President's budget proposal. However, this year, because of the [Fiscal Responsibility Act of 2023](#) or the [debt ceiling deal](#), there was no such effort. The debt ceiling agreement called for \$886 billion in defense spending for FY2024, which is what the Biden Administration requested in its FY2024 [budget proposal](#) – this is a \$28 billion, or 3.3%, increase from FY2023. Neither HASC nor SASC adopted amendments during their markup increasing this topline, as has been done in the past. Both H.R. 2670 and S.2226 included a topline of \$886 billion.

Even though there were no amendments to increase Pentagon spending, there were amendments, in both chambers, to reduce it. Rep. Barbara Lee (D-CA-12) and Rep. Mark Pocan (D-WI-02) introduced an [amendment](#) that would cut the Pentagon Budget by \$100 billion. The Rules Committee did not make this amendment in order, meaning it did not get House floor consideration. Sen. Bernie Sanders (I-VT) introduced an [amendment](#) to cut the Pentagon budget by 10%. It received a stand-alone vote on the Senate floor but failed, receiving only 11 votes.

## Conclusion

Instead of using their House majority to address the needs of people in the U.S. and around the world, the House Republican Leadership used the NDAA as a vehicle to propel a right-wing domestic agenda that curtails abortion and LGBTQIA+ rights, hinders efforts to advance DEI, and attack what it calls a “woke-agenda.” The House

and Senate will now have to conference the NDAA and address policies on domestic social issues in a bill meant for foreign policy and defense.