National Defense Authorization Act

Issue Brief

Overview

At some level, everything that the U.S. military does is dictated to it by one document, the National Defense Authorization Act. Everything the U.S. military does costs money, and the National Defense Authorization Act allows the appropriations committees to appropriate that money to the military for specific purposes. The NDAA establishes military programs, gives guidance on how they should operate, and authorizes the appropriations committees to appropriate funding for them. Along the way, the NDAA can set policy for the entire military to follow, ranging from regulations on how the military can engage in contracts with weapons suppliers to fundamental changes to how the military justice system operates. Given the massive scope of the US military as a domestic institution, the way the military conducts its business can have far reaching impacts on disparate policy arenas, including that of STEM education. In this brief we will discuss the history of the NDAA, how Congress pulls off the feat of passing such a massive bill every year, and how the NDAA can help the innovators of tomorrow achieve their educational goals.

History

As many mainstays of the congressional calendar have, the NDAA began as part of a territorial dispute between different congressional factions. Before fiscal year 1961, Congress had no need for a National Defense Authorization Act, because funding for military programming did not need to be authorized. Instead, the appropriations committees would simply consult with the administration to determine what the military's funding needs were, and which programs needed money to be appropriated to them.

The one exception to this was construction, and in a piece of authorizing legislation for military construction in 1961, the Armed Services Committees sought to stake their claim over the defense funding process by inserting a rider that would require funding for procuring missiles, planes, and ships to be authorized into a bill authorizing military construction funding during the Berlin Crisis of 1961.

Since then, the size and scope of the NDAA has only grown. The cost of the bill has increased from $12.5 billion (~$135 billion in today's dollars) in 1961 to $883.67 billion today, and the bill has expanded to cover most of the country's defense programming.

The NDAA Process

The process of creating the NDAA, a nearly 1,000-page document chock full of defense policy, takes a high level of coordination between the administration and both chambers of Congress across most of the calendar year. In this section, we will provide you with a roadmap for this process, so you can make sure your advocacy is moving in the right direction.

The President's Budget Request

On the first Monday of February each year, the administration is supposed to release its budget request for defense alongside its budget request for the rest of the government, though in practice this is often delayed. Regardless, the

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release of the budget request in early Spring marks the beginning of the NDAA process. Like the appropriations budget request, the President's budget here is not binding but merely serves to express the administration's priorities for the negotiations going forward and inform Congress of where the military's biggest needs are.

Alongside budget requests, the administration will also submit policy proposals they would like to see implemented in this year's NDAA, changing the legal restrictions on how the military should operate and structure itself. The armed services committees in the House and Senate will keep these proposals and the budgets requested by the administration in mind when it begins to draft the NDAA.

The Committees

No discussion of the NDAA is complete without a description of the authorizing committees. The House and Senate Armed Services Committees have jurisdiction over the NDAA process, and each have seven subcommittees, which are listed below.

House:

- Cyber, Information Technologies, and Innovation
- Intelligence and Special Operations
- Military Personnel
- Readiness
- Seapower and Projection Forces
- Strategic Forces
- Tactical Air and Land Forces

Senate:

- Airland (Army, Air Force, and National Guard)
- Cybersecurity
- Emerging Threats and Capabilities
- Personnel
- Readiness and Management Support
- Seapower
- Strategic Forces

Hearings

These committees begin the NDAA process with hearings aiming to squeeze more information out of the administration's budget request. Top military officials will be questioned by the full committee on the state of programs within the armed forces, the reasoning behind the levels of funding requested, and other pressing military issues. Subcommittees will focus on their areas of interest, grilling senior officials on cybersecurity workforce pipeline issues or Air Force procurement practices. What lawmakers uncover during these hearings can be incorporated into the first drafts of that year's NDAA.

Markup

In late April or May, if on schedule, the Armed Services Committees' staff members in the House and Senate will have prepared a first draft of the NDAA, called a "Chairman's Mark", which can then be presented to the various subcommittees for specialized markups. Here, subcommittee members will offer amendments to the proposal to be voted on, and by the end of the meeting the subcommittee will vote to report their amended proposal back to the full committee.

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After all of the subcommittees have reported their amended portions of the NDAA draft back to the full committee, the full committee will consider their changes and take votes on whether to keep, remove or change the amendments offered in subcommittee, as well as whether to make new amendments. The chair will also offer their own markup covering cross-cutting issues affecting the military (as a whole) which will be voted on as well. At the end of the process, the full committee will vote on whether to report the amended NDAA out to the full chamber. Advocates should also look for the reports and summaries issued alongside the bill text, which clarify things like funding levels, the committee's intent, and guidance for agencies.

The House and Senate also mark up the NDAA in different ways. The House more tightly controls procedural aspects of the markup, requiring members to submit community funding requests ahead of the markup, preventing members from attempting to refer the bill to other committees, and usually requiring that amendments that increase spending offset that new spending somewhere else. The Senate, meanwhile, is focused on protecting national security secrets by closing most markups to public viewing.

Floor Consideration

Floor consideration is one of the last practical places for an advocate to make a difference in the NDAA process, as this is one of the last places where it is possible to amend the bill. Because of the size of the two chambers and the size of the bills themselves, leadership will use a special rule in the House and unanimous consent agreements in the Senate to control the flow of debate and filter amendments leadership wants to come up for a vote. Even so, the NDAA can still go through a grueling floor process with hundreds of amendments being offered and many being voted on en bloc, leaving plenty of room for advocates and their friends in Congress to make a difference in defense policy.

Key Issues

The Department of Defense needs a career pipeline for future STEM innovators in order to stay competitive, and Congress should use the NDAA to require the department to invest in students. In fiscal year 2023, the Department of Defense awarded more than $470 billion in contract awards, but at the same time minimal funding goes to supporting the STEM innovators of tomorrow. To resolve this, Congress should include a requirement in the NDAA that just one quarter of one percent of all contracts with the Department of Defense be dedicated and spent on high-quality STEM education programs. This modest requirement would have made $1.175 billion available for STEM education in fiscal year 2023 and would go a long way towards shoring up the STEM workforce pipeline. This proposal not only contains the mainline requirement mentioned earlier but also details which activities will qualify for this funding and how it would work. We hope to implement this proposal during the next NDAA markup for fiscal year 2027, which will strengthen and sustain the STEM education programs that the defense industrial base relies on.

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Relevant Funding Levels

NDAA Enacted Authorizations FY2022-26

FY22 Authorization	FY23 Authorization	FY24 Authorization	FY25 Authorization	FY 26 Authorization
$768.21 billion	$847.32. billion	$874.21 billion	$883.67 billion	$900.6 billion

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