

FY2024 NDAA: Defense Industrial Base Policy

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Background

The *defense industrial base* (DIB) is the network of organizations, facilities, and resources that supplies the U.S. government—particularly the Department of Defense (DOD)—with materials, products, and services for defense purposes. The DIB is large and complex, encompassing private and public entities engaged in activities ranging from basic research to the assembly and delivery of complete weapons systems (for more information, see CRS In Focus IF10548, *Defense Primer: U.S. Defense Industrial Base*). Given its role in enabling military operations, the DIB tends to receive considerable attention from Congress, particularly as part of the annual defense authorization and appropriation process.

The House-passed (H.R. 2670) and Senate-passed (S. 2226) versions of a National Defense Authorization Act for Fiscal Year 2024 (FY2024 NDAA) each contain numerous provisions that would modify or establish DIB-related programs or policy. **Table 1** below summarizes key provisions from H.R. 2670 and S. 2226.

Table 1. Selected Defense Industrial Base Provisions

Selected provisions from the House and Senate bills for an FY2024 NDAA

House-passed (H.R. 2670)	Senate-passed (S. 2226)
DIB Investments and Incentives	
Sec. 853 would direct DOD to establish a public-private partnership pilot program that would create incentives (including loan guarantees) for private equity investment in small or nontraditional defense contractors.	Sec. 831 in S. 2226 is similar to Sec. 853 in H.R. 2670.
Sec. 862 would amend 10 U.S.C. §4817(d) to allow for use of the Industrial Base Fund to support recruitment, training, and retention of the large surface combatant workforce.	No similar provision.

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House-passed (H.R. 2670)	Senate-passed (S. 2226)
No similar provision.	Sec. 216 would direct DOD to establish a program within the National Security Agency (NSA) to develop and maintain standards and requirements to ensure the confidentiality, integrity, and availability of commercial-off-the-shelf microelectronics acquired by DOD. This provision would also create a Microelectronics Assurance Executive Agent and direct DOD to meet certain contracting requirements for application-specific integrated circuits.
No similar provision.	Sec. 835 would amend 10 U.S.C. §4864(a) to add traveling wave tube and traveling wave tube amplifiers to the list of items that must be procured from the NTIB.
No similar provision.	Sec. 866 would establish an enhanced domestic content requirement for Navy shipbuilding programs. For the purposes of the Buy American Act (41 U.S.C. §§8301-8305), this provision would require 65% of the costs of manufactured articles, materials, or supplies procured for shipbuilding to derive from mining, production, or manufacturing activities conducted in the United States. This proportion would rise to 75% in 2028 and 100% in 2033.
No similar provision.	Sec. 907 would direct DOD to establish a pilot program to assess and mitigate certain impacts of adversarial capital flows into defense-related industries. This provision would authorize analysis of capital flows, coordination and outreach relating to investment decision-making, securing vital tangible and intangible assets, capital assistance to certain entities, and improving analytical tools and practices.
No similar provision.	Sec. 1057 would direct DOD to develop a strategy to reduce the reliance of DOD's critical mineral supply chains on certain foreign sources, with the goal of achieving independence from such sources by 2035.
No similar provision.	Sec. 1707 would direct DOD to establish a pilot program to enable the NSA Cybersecurity Collaboration Center to work with U.S. semiconductor manufacturers to improve the cybersecurity of their supply chains.

Competition and Consolidation

Sec. 137 would direct the Navy to ensure that no government-operated drydock can compete for private sector non-nuclear surface ship maintenance contracts (unless a determination of insufficient private sector competition is made pursuant to 10 U.S.C. §2466).	No similar provision.
Sec. 873 would require GAO to conduct a study evaluating the extent and impact of consolidation, competition, and anticompetitive behavior within the defense industry.	No similar provision.
No similar provision.	Sec. 832 would require the parties to certain corporate transactions covered under Section 7A of the Clayton Act (15 U.S.C. §18a) to provide DOD with the same information they are currently required to provide to the Department of Justice or the Federal Trade Commission.

Source: CRS analysis of H.R. 2670 (House-engrossed version) and S. 2226 (Senate-engrossed version) and associated documentation.

Discussion

Congress has long evinced interest in the DIB's ability to support U.S. strategic objectives and meet military requirements. In the context of geopolitical developments such as intensifying U.S. competition with China, and Russia's 2022 invasion of Ukraine, some Members have questioned whether the DIB is well positioned to supply the U.S. military with the weapons, munitions, and other equipment necessary to prevail in a great power conflict.

The FY2024 NDAA bills address numerous congressional priorities relating to the DIB. Provisions relating to investment and related incentives reflect the views of some Members that the industrial base lacks adequate productive capacity and access to capital. Provisions relating to sourcing and supply chain security reflect concerns about the dependence of DOD on foreign suppliers (especially those controlled or influenced by potential adversaries) and other vulnerabilities or inefficiencies within existing supply chains, as well as congressional interest in the economic impact of increasing procurement from domestic sources. Finally, those provisions relating to competition and consolidation reflect concerns about the structural composition and overall economic health of the DIB.

DIB Investments and Incentives

The House and Senate NDAA bills would each modify or establish programs intended to strengthen the DIB through providing or facilitating investments, incentives, and related assistance for industrial base stakeholders.

H.R. 2670 contains provisions that would expand use of the Industrial Base Fund—which currently supports industrial base monitoring and expansion, as well as efforts to address urgent operational needs and supply chain vulnerabilities—to include:

- support for the large surface combatant workforce ([Sec. 862](#)); and
- the acquisition of strategic and critical materials and munitions, certain infrastructure projects, and the use of alternative acquisition pathways, such as Middle Tier Acquisition ([Sec. 863](#)).

S. 2226 would authorize a pilot program to provide capital assistance (including loans, loan guarantees, and the direct acquisition of minority equity) as a means of increasing investment in the DIB ([Sec. 834](#)). It would also designate businesses located in Australia and the United Kingdom as domestic sources for the purposes of the Defense Production Act's Title III. This would make them eligible to receive assistance from the U.S. government in the form of loans, loan guarantees, purchase commitments, the provision of equipment, and related measures ([Sec. 1080](#); under current statute, such assistance is limited to businesses located in the United States and Canada).

Both bills also contain a similar provision that would establish a public-private partnership program to provide incentives (e.g., loan guarantees) for private equity investment in small or nontraditional businesses producing advanced defense capabilities (H.R. 2670 [Sec. 853](#) and S. 2226 [Sec. 831](#)).

Sourcing and Supply Chain Resilience

The House and Senate NDAA bills would each create restrictions or requirements concerning the sources from which DOD may procure materials, products, or services. Each bill would also establish or modify programs intended to improve the resilience of defense-related supply chains.

H.R. 2670 would add a new objective for DOD's National Technology and Industrial Base (NTIB) strategy requiring the reduction of dependence on services, supplies, or materials from potential adversaries ([Sec. 861](#)). The House bill would also require DOD contractors to disclose the provenance of

advanced batteries ([Sec. 865](#)), prohibit DOD from contracting with entities using adversary-controlled logistics software ([Sec. 866](#)), and establish a pilot program for a private entity to carry out continuous monitoring of DOD supply chains ([Sec. 867](#)). Additionally, it would statutorily establish an enhanced ‘Buy American’ requirement for major defense acquisition programs ([Sec. 869](#)), prohibit DOD’s Office of Strategic Capital from investing in Chinese companies ([Sec. 872](#)), and authorize a critical reserve of long-lead items and components for certain munitions ([Sec. 899B](#)).

S. 2226 would establish a program to develop and continuously update standards for commercial microelectronics acquired by DOD ([Sec. 216](#)), restrict eligible sources of traveling wave tubes to the NTIB ([Sec. 835](#)) and enhance the domestic content requirement for Navy shipbuilding programs ([Sec. 866](#)). It would also establish a pilot program to assess and mitigate adversarial capital flows into the DIB ([Sec. 907](#)), require a DOD strategy to achieve critical mineral supply chain independence ([Sec. 1057](#)), and establish a pilot program for cybersecurity partnerships between the Cybersecurity Collaboration Center and U.S. semiconductor manufacturers ([Sec. 1707](#)).

Competition and Consolidation

The House and Senate NDAA bills would each provide direction and require reporting to enhance government cognizance of competition, consolidation, and related trends within the DIB.

H.R. 2670 would direct the Navy to prevent government drydocks from competing with private drydocks for non-nuclear surface ship maintenance contracts, absent a determination of insufficient private sector competition ([Sec. 137](#)) and require a Government Accountability Office study of the prevalence of consolidation, competition, and anti-competitive behavior in the defense industry ([Sec. 873](#)).

S. 2226 would require major defense suppliers involved in corporate transactions requiring notification of, and the provision of information to, antitrust authorities (pursuant to [15 U.S.C. §18a](#)) to provide the same notification and information to DOD ([Sec. 832](#)).

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