

# 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 Report R47751, *The U.S. Defense Industrial Base: Background and Issues for Congress*). 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 and Senate considered an array of DIB-related provisions in their respective bills for a National Defense Authorization Act for Fiscal Year 2024 (FY2024 NDAA; the House bill was designated H.R. 2670 and the Senate bill was designated S. 2226). The enacted FY2024 NDAA (P.L. 118-31) modifies and establishes numerous industrial base programs and policies. **Table 1** summarizes key provisions from H.R. 2670 (House-engrossed), S. 2226 (Senate-engrossed), and P.L. 118-31 (enacted).

**Table 1. Selected Defense Industrial Base Provisions in the FY2024 NDAA**

Selected provisions from H.R. 2670, S. 2226, and P.L. 118-31

House-passed (H.R. 2670)	Senate-passed (S. 2226)	Enacted (P.L. 118-31)
<i>Investments and Incentives</i>		
<a href="#">Sec. 853</a> 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.	<a href="#">Sec. 831</a> in S. 2226 is similar to <a href="#">Sec. 853</a> in H.R. 2670.	Not adopted.

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House-passed (H.R. 2670)	Senate-passed (S. 2226)	Enacted (P.L. 118-31)
<p><a href="#">Sec. 862</a> would amend <a href="#">10 U.S.C. §4817(d)</a> to allow for use of the Industrial Base Fund to support recruitment, training, and retention of the large surface combatant workforce.</p> <p><a href="#">Sec. 863</a> would redesignate the Industrial Base Fund as the “Industrial Base and Operational Infrastructure Fund” and would expand the fund’s uses to include strategic/critical materials and munitions acquisitions, certain infrastructure projects, and the acquisition and deployment of capabilities and prototypes through alternative acquisition pathways (including Middle Tier of Acquisition).</p> <p>No similar provision.</p> <p>No similar provision.</p>	<p>No similar provision.</p> <p>No similar provision.</p> <p><a href="#">Sec. 834</a> would allow DOD to carry out a pilot program to provide capital assistance to support investment in the DIB. Authorized assistance would include loans or loan guarantees for investors; the direct acquisition of equity in eligible entities; and the provision of technical assistance.</p> <p><a href="#">Sec. 1080</a> would amend <a href="#">50 U.S.C. §4552(7)</a> to include businesses in Australia and the United Kingdom as domestic sources for the purposes of Title III of the Defense Production Act of 1950. This provision would also create new reporting requirements related to the use of Title III authorities.</p>	<p>Not adopted.</p> <p>Not adopted.</p> <p>Not adopted.</p> <p><a href="#">Sec. 1080</a> adopts the Senate provision.</p>
Sourcing and Supply Chains		
<p><a href="#">Sec. 861</a> would amend <a href="#">10 U.S.C. §4811(a)</a> to add a new objective for the national technology and industrial base (NTIB) requiring that future NTIB strategies reduce DOD dependence on potential adversary suppliers.</p> <p><a href="#">Sec. 865</a> would require DOD contractors to disclose the provenance of advanced batteries and related components.</p>	<p>No similar provision.</p> <p>No similar provision.</p>	<p><a href="#">Sec. 851</a> adopts the House provision.</p> <p>Not adopted.</p>

House-passed (H.R. 2670)	Senate-passed (S. 2226)	Enacted (P.L. 118-31)
<a href="#">Sec. 866</a> would prohibit DOD contracting with entities that use logistics software subject to PRC or foreign adversary control or influence and bar certain port authorities from using such software.	No similar provision.	<a href="#">Sec. 825</a> adopts the House provision, with amendments to define applicable entities as those that provide data to covered logistics platforms (defined as platforms and similar systems provided or sponsored by, or affiliated with, the PRC or a commercial entity under PRC control). It also amends <a href="#">Chapter 503 of Title 46</a> to restrict certain port and marine infrastructure entities from using covered logistics platforms.
<a href="#">Sec. 867</a> would direct DOD to establish a pilot program for a private entity to analyze and continuously monitor DIB supply chains for issues, vulnerabilities, and improvement opportunities.	No similar provision.	<a href="#">Sec. 856</a> adopts the House provision.
<a href="#">Sec. 868</a> would require a study by the Comptroller General of DOD supply chain dependence on foreign sources for certain end items and components.	No similar provision.	Not adopted; however, the conference report to accompany H.R. 2670 (H.Rept. 118-301) <a href="#">directs</a> the Comptroller General to provide a briefing to the House and Senate Armed Services Committees on DOD supply chain dependence on foreign sources for certain end items and components.
<a href="#">Sec. 869</a> would establish an enhanced domestic content requirement for major defense acquisition programs (consistent with that published at <a href="#">87 FR 12780</a> ) and require DOD to issue rules to determine treatment of certain foreign end products under certain circumstances.	No similar provision.	<a href="#">Sec. 835</a> adopts the House provision.
<a href="#">Sec. 872</a> would prohibit DOD's Office of Strategic Capital from investing in entities incorporated under laws of the People's Republic of China or subject to the ownership or control of such entities.	No similar provision.	Not adopted.
<a href="#">Sec. 899B</a> would authorize DOD to establish a critical reserve of long-lead items and components to enable accelerated delivery of certain munitions.	No similar provision.	<a href="#">Sec. 245</a> adopts the House provision.

House-passed (H.R. 2670)	Senate-passed (S. 2226)	Enacted (P.L. 118-31)
No similar provision.	<a href="#">Sec. 216</a> 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.	Not adopted.
No similar provision.	<a href="#">Sec. 835</a> would amend <a href="#">10 U.S.C. §4864(a)</a> to add traveling wave tube and traveling wave tube amplifiers (TWTA) to the list of items that must be procured from the NTIB.	Not adopted; however, H.Rept. 118-301 <a href="#">directs</a> the Under Secretary of Defense to provide a briefing on the state of the TWTA industrial base to the congressional defense committees.
No similar provision.	<a href="#">Sec. 866</a> would establish an enhanced domestic content requirement for Navy shipbuilding programs. For the purposes of the Buy American Act ( <a href="#">41 U.S.C. §§8301-8305</a> ), 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.	Not adopted.
No similar provision.	<a href="#">Sec. 901</a> would codify in statute DOD's Office of Strategic Capital.	<a href="#">Sec. 903</a> adopts the Senate provision.
No similar provision.	<a href="#">Sec. 907</a> 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.	Not adopted.
<a href="#">Sec. 1415</a> would state that it is U.S. policy to expand secure sources of supply of critical minerals, and 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.	<a href="#">Sec. 1057</a> 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.	<a href="#">Sec. 1414</a> adopts the House provision.

House-passed (H.R. 2670)	Senate-passed (S. 2226)	Enacted (P.L. 118-31)
No similar provision.	<a href="#">Sec. 1707</a> 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.	<a href="#">Sec. 1513</a> adopts the Senate provision.
<b>Competition and Consolidation</b>		
<a href="#">Sec. 137</a> 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 <a href="#">10 U.S.C. §2466</a> ).	No similar provision.	<a href="#">Sec. 126</a> adopts the House provision, with an amendment restricting the provision's scope to contracts awarded in San Diego.
<a href="#">Sec. 873</a> 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.	Not adopted; however, H.Rept. 118-301 <a href="#">directs</a> the Assistant Secretary of Defense for Industrial Base Policy to develop a merger and acquisition (M&A) impact model and provide briefings to the House and Senate Armed Services Committees.
No similar provision.	<a href="#">Sec. 832</a> would require the parties to certain corporate transactions covered under Section 7A of the Clayton Act ( <a href="#">15 U.S.C. §18a</a> ) to provide DOD with the same information they are currently required to provide to the Department of Justice or the Federal Trade Commission.	<a href="#">Sec. 857</a> adopts the Senate provision.

**Source:** CRS analysis of the House-engrossed text of H.R. 2670, the Senate-engrossed text of S. 2226, P.L. 118-31, and the conference report to accompany H.R. 2670 (H.Rept. 118-301).

## Discussion

Congress has long evinced interest in the DIB's ability to support 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 nation's defense suppliers are well-positioned to supply DOD with the weapons, munitions, and other equipment necessary to prevail in a great power conflict.

The enacted FY2024 NDAA addresses 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 chains reflect concerns about DOD dependence on foreign suppliers (especially those controlled or influenced by potential adversaries) and other vulnerabilities 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.

## Investments and Incentives

The enacted FY2024 NDAA designates businesses performing under a U.S. contract in Australia and the United Kingdom as domestic sources for the purposes of Title III of [the Defense Production Act of 1950 \(DPA\)](#). This makes them eligible to receive loans, loan guarantees, purchase commitments, equipment, and related U.S. government assistance intended to expand defense production capacity ([Sec. 1080](#); previously, such assistance had been limited to businesses located in the United States and Canada).

The House and Senate-engrossed bills for an FY2024 NDAA contained other provisions relating to DIB investments and incentives that were not included in P.L. 118-31. H.R. 2670 would have expanded 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](#)) as well as certain material and munition acquisitions, infrastructure projects, and “alternative acquisition pathways” ([Sec. 863](#)). S. 2226 would have authorized 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](#)). Both bills also would have established a public-private partnership program to incentivize private equity investment in small or nontraditional defense businesses (H.R. 2670 [Sec. 853](#) and S. 2226 [Sec. 831](#)).

## Sourcing and Supply Chains

The enacted FY2024 NDAA requires DOD’s [National Technology and Industrial Base \(NTIB\)](#) strategy to aim at reducing U.S. dependence on services, supplies, or materials from potential adversaries ([Sec. 851](#)), prohibits DOD from contracting with entities using adversary-controlled logistics software ([Sec. 825](#)), and directs DOD to use government and commercial tools to analyze certain supply chains ([Sec. 856](#)), statutorily establishes an enhanced ‘[Buy American](#)’ requirement for major defense acquisition programs ([Sec. 835](#)), authorizes a critical reserve of certain long-lead munition items ([Sec. 245](#)), and statutorily establishes the Office of Strategic Capital ([Sec. 903](#); DOD initially created the Office of Strategic Capital in 2023 without reference to Congress). Finally, it requires a DOD strategy to achieve critical mineral supply chain independence ([Sec. 1414](#)) and establishes a pilot program for cybersecurity partnerships with U.S. semiconductor manufacturers ([Sec. 1513](#)).

The House and Senate bills contained other provisions relating to sourcing and supply chains that were not adopted. H.R. 2670 would have required DOD contractors to disclose the provenance of advanced batteries ([Sec. 865](#)) and prohibited DOD’s Office of Strategic Capital from investing in PRC companies ([Sec. 872](#)). S. 2226 would have established a program to develop and maintain standards for commercial microelectronics acquired by DOD ([Sec. 216](#)), restrict eligible sources of traveling wave tubes to the NTIB ([Sec. 835](#)) and enhanced the domestic content requirement for Navy shipbuilding programs ([Sec. 866](#)). It would have also established a pilot program to assess and mitigate adversarial capital flows into the DIB ([Sec. 907](#)).

## Competition and Consolidation

The enacted FY2024 NDAA directs the Navy to prevent government drydocks from competing with private drydocks for non-nuclear surface ship maintenance contracts in San Diego, absent a determination of insufficient private sector competition ([Sec. 126](#)). It also requires 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 concurrently to DOD ([Sec. 857](#)).

The House bill contained a provision requiring a Government Accountability Office study on consolidation, competition, and anti-competitive behavior among defense contractors that was not adopted ([Sec. 832](#)).

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