



Center for Military Readiness — Policy Analysis —

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WHY THE DEFENSE BILL DESERVES DEFEAT

Executive Summary

Provisions in both the **Senate** and **House** versions of the **National Defense Authorization Act (NDAA) for FY 2022** are unacceptable for reasons noted and analyzed below.¹ Because the most objectionable proposals would be virtually irreversible, this NDAA is different from any other and it should not be enacted in law. The legislation doesn't just authorize funding; it turns the military into an organization promoting the left's favorite "woke" initiatives.

Directives to register or draft women, meet diversity and "equity" quotas, address "climate change," and require divisive critical race theory and "anti-extremism" programs based on racial stereotypes and suspicions do not inspire confidence in America's ability to fight and win.

A larger defense budget won't matter if potential adversaries, such as **China** or **North Korea**, believe they can get away with aggression against our allies because our military is concentrating on social agendas—some of which would be expanded and codified by provisions in the pending defense bills.

Deterrence and serious intent to use our military force are the only things standing between the **People's Liberation Army** and **Taiwan**. Passage of the NDAA this year would weaken deterrence by sending the message that Congress does not take national defense seriously.²

It is unconscionable that radical, unjustified changes in defense and national service policies could be rubber stamped by passage of the massive defense bill, even without House or Senate hearings presenting testimony from independent witnesses who would spark an informed public discussion and debate.

Members of the House and Senate should apply the brakes and withhold support for a defense bill that suggests a shift in priorities toward woke weakness, not military strength.

A. "Blank Check" Provisions for Changing the Purpose of Selective Service

The NDAA approved by the **Senate Armed Services Committee (SASC)** declares, ". . . *adequate military strength [requires] a requisite number of personnel with the necessary capabilities to meet the **diverse mobilization needs** of the Department of Defense during a national emergency.*" (Senate Sec. 511, pp. 156-160, emphasis added throughout)

Language in this bill is imprecise, but it likely would be interpreted the same way as the House-approved version, which is more specific in referring to the "*mobilization needs of the Department of Defense during a national emergency and **not solely to provide combat replacements.***" (House Sec. 513, pp. 224-235)

It is significant to note that the House version repeats word-for-word draft legislation that the **National Commission on Military, National, and Public Service** included in an Appendix to their Final Report. (Title IV, pp. 161-170)

Both provisions, as written, would change the very purpose of Selective Service with "blank check" language. Enactment in law would allow Pentagon bureaucrats to commandeer the lives of young people for reasons that have never justified conscription before. This is a blank check that Congress must not sign.

1. *Incremental First Step Toward Universal National Service*

The pending Senate and House NDAA bills include passages that clearly reflect the grandiose **Inspire to Serve Act**, which the National Commission on Military, National, and Public Service released with its Final Report.

Under the Senate bill, the Defense Department would designate a senior civilian official within the office of the Secretary of Defense as an **"Executive Agent for National Mobilization."** This office would be responsible for producing a plan for inducting *"large numbers of volunteers who may respond to a national call for volunteers during an emergency . . . It would also address scenarios that would include 300,000, 600,000 and 1,000,00 new volunteer and other personnel inducted into the Armed Forces under the MSSA."* (Senate NDAA Sec. 514, pp. 168-170, and House NDAA, Sec. 1076, pp. 1090-1092)

The recommendation for a *"lead national mobilization executive agent within the Office of the Secretary of Defense,"* together with the numbers of "volunteers" cited above, are straight out of the National Commission's Final Report. (p. 183)

Never mind that talk about "volunteers" in the context of the **Military Selective Service Act (MSSA)** is an oxymoron. The MSSA is all about *involuntary* service, meaning conscription.

The proposed new language appears to be an incremental step toward the creation of a bureaucratic infrastructure to manage future **national service** requirements, both military and civilian. The ultimate objective recommended by the National Commission would be a permanent Cabinet-level **Council on Military, National, & Public Service**.

This would be a powerful bureaucracy empowered to use both economic "carrots" and penalty "sticks" to obtain two years of government directed "service" for reasons other than combat or national defense.

Once the Executive Agent for National Mobilization begins operations, after passage of the NDAA, there would be no going back. Incrementalism + Consistency = Radical Change.

2. *Prospects for a "Modernized" Selective Service System*

For what "national emergencies" would a "modernized" Selective Service bureaucracy register and potentially draft thousands of young men and women? Possibilities are apparent right now.

As its first major initiative under **President Joe Biden**, the Department of Defense released a **Climate Adaptation Plan** declaring *"Climate change is an existential threat to our nation's security."*³ At the same time, liberals in Congress are working to establish a new **\$8 billion Civilian Climate Corps (CCC)** – part of the **Green New Deal** – which would be funded by the pending **\$3.5 Trillion Reconciliation Bill**.⁴

If the purpose of Selective Service is changed to include *"diverse mobilization needs"* that are *"not solely to provide combat replacements,"* Pentagon and White House bureaucracies, coordinated by the Executive Agent for National Mobilization or some other Big Government bureaucracy, could easily induct "volunteers" for open-ended make-work Civilian Climate Corps tasks that have little or nothing to do with national defense.

When President Biden announced unprecedented COVID shot mandates on millions of Americans, *without* congressional authorization, he said with a grimace, “*This is not about freedom of choice.*”⁵ Mandates *with* congressional authorization would be even more onerous.

Since the Defense Department has officially announced that climate change is an “existential threat” and a national security priority, all sorts of CCC mandates would seem to fall right into place. Meanwhile, China is getting ready to take Taiwan.

3. *Other “Diverse Mobilization Needs” and Databases*

Congress should consider whether Selective Service should be authorized to pursue climate change projects and other controversial causes that current Pentagon leaders are pursuing relentlessly. For example:

- Secretary of Defense **Lloyd Austin III** began his term in office by ordering military-wide stand-downs to examine “extremism” in the ranks with an obvious bias against non-minorities.⁶
- Joint Chiefs Chairman **General Mark Milley** and Navy Chief of Naval Operations **Admiral Michael Gilday** have vigorously defended divisive and demoralizing “**critical race theory**” (CRT) instructions and reading lists.⁷
- In addition, all branches of the service are pursuing racial and gender quotas in pursuit of “*Diversity as a strategic imperative.*”⁸

Instead of proposing legislation to limit woke policies in the military, the House bill would establish an “**Office of Combating Extremism,**” which would “*engage and interact with, and solicit recommendations from outside experts on extremism;*” (House NDAA sec. 529A, pp. 303-304)

The House bill also calls for the “**Expansion and Codification**” of Defense Department “*diversity, equity and inclusion*” training programs, to include “*conscious and unconscious bias*” instructions that are typical of critical race theory programs. (House NDAA, Sec. 553, pp. 383-384)

Whether intended or not, a vote for this defense bill is a vote to expand and codify unacceptable woke policies in the military.

It is not known how young draftees would be mobilized to address these Defense Department priorities, but it is very likely that any plan to find people who may be suited for purposes other than combat would require the establishment of mandatory national databases collecting detailed personal and private information from young men and women between the ages of 18 and 26.

All these pursuits would constitute expandable first steps toward **universal national service** – the primary objective promoted by the National Commission on Military, National, and Public Service. The commission spent **\$45 million** over three years, but it failed to produce a report presenting extensive information on the harmful consequences of changing the purpose and procedures of the Selective Service law.

There are few reasons why the federal government may restrict personal freedom. From **World War I** until today, the purpose of a Selective Service draft always has been to provide replacements for soldiers fallen in battle during a nation-threatening war. The goal should be **military readiness**, not “**equity**” between the sexes or woke social agendas.

B. “Draft Our Daughters” Legislation Would Needlessly Cost Lives

1. The Case for Co-Ed Conscription Has Not Been Made

Both the Senate and House bills would change the Selective Service law by striking “male citizen” and “male person” and inserting “citizen” and “person.” This change, which would involve women in Selective Service, would implement a lame argument from the National Commission: “*The time is right.*”⁹

However, the time is never right for Congress to vote for ill-advised policies that harm women and weaken national defense.

The issue is not about defense dollars and weapons; it is a legacy issue of paramount importance to the military as well as women. The **U.S. Supreme Court** likely would recognize any congressional vote to “**Draft Our Daughters**” as constitutional. Such a vote could become politically irreversible, even if delayed for several years, due to other provisions in the Senate bill that would begin the process of implementation.

This would be most unfortunate, since members of Congress have not even begun to consider the harmful consequences of conscripting both men and women for combat in a future national emergency. And few have considered the consequences of changing the purpose of the Military Selective Service Act as the first incremental step toward universal national service.

Superficial arguments for registering or drafting women are insufficient, especially since the National Commission on Military, National, and Public Service did not produce the objective, complete research that Congress expected. The Commission’s Final Report and recommendations omitted or barely mentioned highly relevant information that contradicted the panel’s pre-conceived agenda.¹⁰

In the National Commission’s final report, little was said about the negative impact on readiness if women are treated like men in the combat arms during a time of catastrophic national emergency. Today – no less than when the Supreme Court issued its landmark *Rostker v. Goldberg* decision (1981) – women and men are not “*similarly situated*” insofar as physical strength and endurance required to succeed in the deadly environment of the battlefield.

Three years of scientific research done by the **Marine Corps** showed that *as a group*, women do not have physical strength and endurance equal to men:

- Due to major gender-related differences in physical strength, speed, and endurance, all-male combat units with average-ability soldiers outperformed mixed-gender test units with highly qualified women in **69%** of evaluated tasks, including hiking under load.¹¹
- A four-page Summary of findings also reported that servicewomen were **two to six times** more likely to be injured. Women suffer serious **health problems** such as **infertility** and higher risks of **suicide**, and female **attrition** also has been **twice as high** in combat units that used to be all-male.¹²
- In 2018, **Training & Doctrine Command (TRADOC)** announced plans for a six-event **Army Combat Fitness Test (ACFT)** to be a “gender-neutral” replacement for the longstanding **Physical Fitness Test (PFT)**, which allowed for significant differences in men’s and women’s physical capabilities.
- Problems first became apparent when unofficial pass/fail records of **3,206** soldiers in 11 battalions performing the ACFT resulted in an **84%** failure rate among female trainees and **30%** among the

men. The Army has attempted several adjustments in test requirements and scoring systems since then, but the gender-neutral ACFT is widely perceived as a failure.¹³

Contrary to National Commission claims about women's success in advanced infantry training, these empirical findings, and more, suggest that involuntary conscription of women would make combat arms units less strong, less fast, more vulnerable to debilitating injuries, less ready for deployment on short notice, and less accurate with offensive weapons during combat operations.

Even if Congress changes the purpose of Selective Service, nothing will preclude a draft to conscript equal numbers of minimally qualified men and women to fight in combat in a future war. Persons in the Selective Service pool would be sent to units where the need is greatest, such as the infantry.

2. The Paramount Goal Should Be Combat Effectiveness, not "Equity"

Calling up **50% men** and **50% women** for purposes of "equity," even though few women would meet physical requirements, would jam the Selective Service system and slow mobilization at the worst possible time. There is no compelling reason for creating this logistical problem, or for implementing a cultural shift that departs from traditional respect for women.

Opportunities are wide-open for women in the All-Volunteer Force, but there is no evidence that military or civilian women want to be forced into the combat arms on the same involuntary basis as men. Nor is there evidence that Selective Service mandates would improve recruiting, readiness, or effectiveness in battle if it becomes necessary to reinstate a draft.

A vote to register women would not show respect; it would disrespect women by implying that they would not step up to serve in time of national emergency, as women always have.

3. Selective Service Law Could Still Recognize Physical and Military Realities

The Supreme Court recently denied a petition for *certiorari* from a men's rights group that was seeking an order to include women in Selective Service registration. The Supreme Court noted that **Article 1, Section 8** of the **U.S. Constitution** assigns the authority to decide military issues to Congress, not the Courts.¹⁴

Congress has the power – and the responsibility – to seriously consider extensive research findings confirming physical disparities affecting unit strength, speed, and superiority in battle. Congress also can recognize that it would not make sense for Selective Service to waste time and resources culling thousands of female draftees just to find the few who might meet standards in combat arms units that engage in deliberate offensive action against the enemy.¹⁵

Conclusion

America's defense policies should assign priority to the readiness of our **All-Volunteer Force** to counter current and future threats, to deter aggression, and to win if our freedom and national interests are in peril. This issue is not about money alone and it should not be partisan. It is about the very purpose of the military and core principles that sound congressional oversight demands.

Now is not the time to pass open-ended, blank-check legislation that would force monumental changes and new policy mandates for universal national service, on an incremental basis. No one is demanding these changes, and Congress should not approve a defense bill that harms women, codifies woke policies, and weakens national defense.

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Endnotes:

- ¹ On July 21, the Senate Armed Services Committee (SASC), approved without public disclosure a version of the [National Defense Authorization Act \(NDAA\) for 2022](#) (S. 2792). [The House NDAA for 2022](#) (H.R. 4350) passed by the full House on September 23, includes similar provisions for revising Selective Service law.
- ² Thomas Spoehr, *The Hill*, [A Dangerously Distracted Pentagon](#), Oct. 14, 2021.
- ³ Department of Defense [Climate Adaptation Plan](#), Sep. 1, 2021 and [Statement](#) released by Defense Secretary Lloyd J. Austin III, Oct. 7, 2021.
- ⁴ Congressional Research Service: [Biden Administration Proposes New Civilian Climate Corps](#), May 3, 2021, Ellen Sciales, Sunrise Movement *Uprising News*: [The Civilian Climate Corps \(CCC\), Explained](#), Apr. 20, 2021, and Republican Study Committee Report, [Reconciliation Roundup: Policies to Wreck America](#), Item #2, Oct. 12, 2021.
- ⁵ Andrew Miller, *Fox News*, [Biden Declares Sweeping New Vaccine Mandate: 'This Is Not About Freedom'](#), Sep. 9, 2021.
- ⁶ Emily Jacobs, *New York Post*, [Defense Secretary Lloyd Austin Orders Military 'Stand Down'](#), Feb. 4, 2021.
- ⁷ Bruce Golding, *New York Post*, [Joint Chiefs Chair Gen. Mark Milley Defends Teaching 'Critical Race Theory' at West Point](#), June 23, 2021. Hank Berrien, Daily Wire, [Fiery, Explosive Challenge to Navy admiral for Recommending Critical Race Theory Book for Every Sailor](#), Jun. 16, 2021.
- ⁸ Andrea Widburg, *American Thinker*, [The United States Navy is Now a "Woke" Institution](#), Feb. 14, 2021; CMR: ["Diversity & Inclusion Strategic Plan" Will Weaken Special Operations Forces](#); Also see [Task Force One Navy Final Report \(defense.gov\)](#) 14, 2021.
- ⁹ [Statement for the Record Submitted by Elaine Donnelly, President, Center for Military Readiness](#) – Senate Armed Services Committee Hearing on Final Recommendations and Report of the National Commission on Military, National, and Public Service, March 11, 2021.
- ¹⁰ National Commission on Military, National, and Public Service, Final Report: [Inspired to Serve](#), Mar. 2020. The Commission's "Inspire to Serve Act" draft is archived but proposed in legislation sponsored by Rep. Jimmy Panetta, [Text - H.R.6415 - 116th Congress \(2019-2020\): Inspire to Serve Act of 2020 | Congress.gov | Library of Congress](#).
- ¹¹ [Marine Corps Force Integration Plan Summary](#)
- ¹² See Julie Pulley and Hugh P. Scott, *Los Angeles Times*: [What Military Recruiters Aren't Telling Women: You'll Face Disproportionate Health Risks](#), July 25, 2017; Caitlin Foster, *Business Insider*: [Military Women Suffer Infertility at 3 Times the Rate of Civilians](#), Dec. 20, 2018; Kate Hendricks Thomas and Kyleanne Hunter, Task & Purpose: [It's Time To Address The Staggering Rate Of Suicide Among Servicewomen And Female Vets](#) Oct. 24, 2017; and CMR Fact Sheet: [Pentagon Reports: Female Attrition Reports Twice as High in Formerly All-Male Ground Combat Units](#), May 2002.
- ¹³ David Brown, *Clearance Jobs*: [Army Combat Fitness Test Fiasco! Slides Reveal 84% of Women Failing ACFT](#), Oct. 5, 2019, and Kyle Rempfer, *Army Times*: [Army looking at ways to 'account for biological differences' with new fitness test](#), Feb. 12, 2021.
- ¹⁴ CMR: [Supreme Court Denies Petition to Include Women in Selective Service Draft Registration](#), Jun. 15, 2021.
- ¹⁵ While President Jimmy Carter asked Congress in 1980 to register women for the draft "based on equity," the Supreme Court found in the 1981 *Rostker v. Goldberg* case that Congress "was certainly entitled, in the exercise of its constitutional powers to raise and regulate armies and navies, to focus on the question of military need rather than 'equity.'"

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