



SECRETARY OF DEFENSE  
1000 DEFENSE PENTAGON  
WASHINGTON, DC 20301-1000

SEP 26 2024

The Honorable Jack Reed  
Chairman  
Committee on Armed Services  
United States Senate  
Washington, DC 20510

Dear Mr. Chairman:

I write to extend my appreciation for the support you have provided to the Department of Defense (DoD) as you work toward the final version of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2025. In addition, I would like to highlight topics of significant concern for the Department. If left unaddressed, certain provisions in the House-passed or Senate-proposed bills will substantially impact the Department's ability to accomplish our strategic goals.

The Department's three main priorities remain unchanged: Defend the Nation, Take Care of Our People, and Succeed through Teamwork. The 2022 National Defense Strategy (NDS) prioritizes protecting the American people, expanding America's prosperity, and realizing and defending our democratic values. The Department is grateful that the current versions of the FY 2025 NDAA bills make significant investments in these and other areas in support of our national security.

Nevertheless, the respective FY 2025 House-passed and Senate-proposed NDAA bills include certain provisions of significant concern to the Department. I encourage Members to consider the following issues and requests as you move toward final passage of the bill:

- **Shipbuilding and Force Modernization.** The Department strongly opposes section 129 of the Senate-proposed bill and section 1018 of the House-passed bill, which would authorize and provide funding in FY 2025 for a second Virginia Class submarine, which industry would be unable to produce on a reasonable schedule. In addition, adding a second submarine would require the Department to reduce the Next Generation Fighter program by \$400 million, making the fighter program unexecutable and degrading the Navy's ability to field next generation aircraft capabilities required in the 2033 to 2037 timeframe. The Department urges Congress to support near-term submarine industrial base investments and the aviation priorities proposed in the FY 2025 Budget request.
- **Force Modernization.** The Department strongly opposes section 152 of the House-passed bill and sections 134 and 131 of the Senate-proposed bill. The Department strongly supports including language from the Administration's legislative proposal that would modify the limitation on F-22 Aircraft Force Structure to allow necessary force structure changes. Section 152 of the House-passed bill requires a Primary

Mission Aircraft Inventory minimum of 1,106. This minimum would impede the Department's modernization efforts by redirecting personnel, infrastructure, and funding required to deter, and if necessary, defeat the People's Republic of China (PRC). The provision would also require the Air Force to maintain less-capable fighters and would decrease the Department's ability to determine operational requirements. Section 134 of the Senate-proposed bill would set a requirement to recapitalize the 25 Air National Guard fighter squadrons at a similar rate as Active Component fighter squadrons. This requirement would infringe on DoD's ability to manage military forces in a manner that supports national security objectives. It would also pose a strategic risk to the Air National Guard and Active Component fighter squadrons by not affording flexibility and time to develop recapitalization plans. Section 131 of the Senate-proposed bill would restrict the Air Force from reducing E-3 inventory below 16 until sufficient E-7s are procured to accomplish the E-3 mission. The Department needs to balance mission and fiscal demands in pursuit of NDS objectives and views this section as overly restrictive and as eliminating other more fiscally appropriate options available. The omission of Administration-proposed language repealing the limitation on retirement of F-22 Block 20 aircraft in the House-passed bill would reduce the Department's ability to optimize its force and would also increase sustainment costs, further slowing the pace of modernization.

- **Air Force Strategic Basing Process.** The Department strongly opposes section 2849 of the Senate-proposed bill, which would dictate rigid and inefficient requirements for Air Force basing decisions that would nearly eliminate senior military leader judgment from the process, decrease the ability to meet operational requirements, and lead to inconsistent strategic basing actions across the Services. The Air Force is undergoing a rapid modernization effort to implement the 2022 NDS and counter the PRC's aggressive military buildup of forces in the Indo-Pacific region. This provision would significantly complicate and delay the deployment of critical Air Force capabilities, slow the basing process, and reduce readiness and resiliency of military bases and installations.
- **Basic Needs Allowance (BNA).** The Department is strongly committed to taking care of the Nation's Service members and their families and urges Congress to support the Administration's FY 2025 Budget request to increase the eligibility and payment thresholds for the BNA from 150 percent to 200 percent of the Federal Poverty Guidelines. Such an increase will enable DoD to provide expanded payments to a targeted group of Service members with the greatest need.
- **Force Structure Limitations.** The Department strongly opposes section 4301, line 110, under the heading "Operation and Maintenance, Navy Operating Forces," of the Senate-proposed bill and section 1020 of the House-passed bill, which would prevent the Navy from making necessary force structure changes to divest certain platforms to prioritize investments in modernization, readiness, weapons, and other areas to ensure the Nation's force structure remains capable and relevant to current and future challenges. These provisions would severely limit the Department's authority in this regard.

- **Reprioritization of Military Construction Funding to Unrequested Projects.** The Department opposes the realignment of military construction funding from priority projects to other projects. Contrary to the Administration’s fiscally responsible policy to fully fund executable projects, the Senate-proposed bill proposes to fund 23 military construction projects incrementally. This would effectively create an unfunded obligation of almost \$2.4 billion needed to successfully execute these projects over time and would divert those funds to projects that are either not executable in FY 2025 or of lower priority than the requested projects.
- **Junior Enlisted Basic Pay Increase.** The Department is committed to taking care of our Service members and their families and appreciates the Committee’s concern for the needs of the most junior enlisted members. With the support of Congress, the Department has taken significant actions to increase resources for Service members. In January, Service members received a 5.2 percent basic pay increase — the largest since 2003 — coupled with an average 5.4 percent increase in basic allowance for housing and a 1.7 percent increase in basic allowance for subsistence. The President’s FY 2025 Budget Request includes a basic pay raise of 4.5 percent. If the President’s FY 2025 request is enacted, Service members will have received a 15 percent basic pay increase in just three years. In this context, the Department strongly objects to making the additional, permanent change to the basic pay schedule outlined in section 1801 of the House-passed bill before the completion of the Fourteenth Quadrennial Review of Military Compensation in 2025, which is reviewing basic pay increases and other “Taking Care of People” initiatives to determine if further changes are advisable. Further, the proposed changes would either eliminate or significantly decrease the pay differential between junior enlisted and more senior enlisted pay. Mid-grade and senior enlisted members have greater responsibilities and leadership positions, and a pay increase only for junior enlisted would eliminate the pay differential that mid-grade and more senior enlisted receive for their substantial responsibilities. The proposed increase in the House bill is limited to junior enlisted members and does not reflect a holistic look at the pay table, to include senior enlisted members (and officers). Additionally, section 1801 would cost over \$3.3 billion in FY 2025 and a total of more than \$21.9 billion from FYs 2025 to 2029.
- **Diversity, Equity, and Inclusion.** The Department strongly opposes the provisions in the House-passed bill (sections 528, 573, 599c, 903, and 1116) and Senate-proposed bill (sections 923 and 1113), as well as the reductions in budgetary authority in the Senate funding tables (sections 4301 and 4401) that limit our ability to build cohesive teams and fully leverage the unique backgrounds, skillsets, and perspectives of the Total Force. DoD works to promote dignity, respect, and equal opportunity for all who serve in our Nation’s defense, and the personnel who support these efforts work to ensure that Service members and DoD civilians — regardless of race, ethnicity, or gender — work together as effectively as possible and reach their highest potential within the Department. The enactment of these provisions would send a troubling message to Service members and potential recruits, suggesting that the Department does not value the very diversity of the Nation it serves.

- **Chief Management Officer (CMO).** The Department strongly opposes section 909 of the Senate-proposed bill. This section would reestablish the CMO, resulting in structurally the same outcomes as the CMO position that the Congress eliminated. That elimination, which followed an independent external review of the CMO, directed by the Congress, concluded that the CMO had been ineffective in implementing its statutory duties and encouraged its disestablishment. As written, this section would create gaps and inefficiencies in the overall management and oversight of DoD and undermine the ability of other Principal Staff Assistants to carry out their responsibilities. Finally, as the Government Accountability Office (GAO) has warned in the past, reorganization would only detract from needed focus on meeting key business process and financial management goals. Of note, since the disestablishment of the CMO, GAO has increased its rating on DoD's leadership in these areas.
- **Assistant Secretary of Defense for Nuclear Deterrence Policy and Programs.** The Department strongly objects to section 1525 of the Senate-proposed bill, which would carve out functions and authorities from the Office of the Under Secretary of Defense (USD) for Acquisition & Sustainment and the Office of the USD for Policy to create a new Assistant Secretary of Defense for Nuclear Deterrence Policy and Programs (ASD(NDPP)) that reports directly to the Secretary of Defense. The proposed ASD(NDPP) position is ill-defined, poses significant implementation challenges, and has the potential to create unclear lines of authority within the DoD. Nuclear issues are a top priority for the Department and receive substantial senior leader attention up to and including the Deputy Secretary and Secretary of Defense. The Department looks forward to working with the House and Senate to consider options that best ensure strategic deterrence.
- **Missile Defense Site for Protection of Homeland.** The Department strongly objects to section 1633 of the House-passed bill, which would mandate the construction of an additional homeland missile defense site. The U.S. homeland is currently protected by missile defense sites in Alaska and California. DoD does not have an operational requirement for a third site at this time, which could cost as much as \$5 billion for site construction and procurement of interceptors. DoD continues to prioritize the development of the Next Generation Interceptor (NGI), which can protect all 50 states, with flight testing beginning in 2027 and operational emplacement beginning in 2028 in the 20 available silos in Alaska. DoD also retains the option of replacing the older interceptors in Alaska and California with NGIs to further improve the probability of successfully intercepting missile threats.
- **Prohibition on Realignment or Reduction of Special Operations Forces (SOF) End Strength Authorizations.** The Department strongly objects to section 1044 of the House-passed bill, which would prevent reducing or realigning SOF end-strength authorizations for all of calendar years 2025 and 2026. The Army conducted extensive analysis indicating that the existing Army SOF force structure meets or exceeds demand in large-scale conflict relative to other capabilities. As a result, the Secretary of Defense directed ASD for Special Operations/Low-Intensity Conflict (SO/LIC) to reduce Army SOF by approximately 3,000 billets. This provision would

constrain the ability of the Department's leadership to organize, train, and equip forces in support of the NDS. Further, this provision would limit DoD's ability to shape the Force in response to emerging threats and dynamic needs and require the Army to consider reductions to other parts of the Force.

- **DoD Oversight of Intelligence, Intelligence-related, and Sensitive Activities.** The Department strongly objects to section 930 of the House-passed NDAA and corresponding language in section 502 of the House Permanent Select Committee on Intelligence markup to the Intelligence Authorization Act, which would assign by statute responsibility to the DoD Senior Intelligence Oversight Official (SIOO) for oversight of defense operational activities that the SIOO does not currently have in DoD policy. The Department recognizes the intent to ensure stronger oversight of sensitive activities. In furtherance of that objective, I have directed the SIOO, in coordination with the USD for Intelligence & Security, the USD for Policy, the USD for Acquisition & Sustainment, the Special Access Program Central Office, and the ASD(SO/LIC), to obtain recommendations from DoD components and present options to reform DoD execution and oversight of sensitive activities, including how best to conduct independent oversight within DoD for all of the Department's sensitive activities and operations. At my direction, SIOO, with support from appropriate DoD Components, will also initiate a formal review of the events precipitating this proposal, specifically identifying and proposing recommendations to address any larger systematic, policy and oversight issues that may have contributed to such events. Enacting these provisions, along with the amplifying explanation within the House and Senate classified annexes to the committee reports accompanying the respective NDAA bills, would prematurely determine roles, oversight responsibility, and DoD structure in advance of these efforts and would unnecessarily include the DoD Office of Inspector General in a policy reform effort. I urge Congress to allow the Department to complete its assessment and provide me with recommendations for changes in DoD policy before considering statutory changes, preserving my ability to organize the Office of the Secretary of Defense (OSD) in the most effective manner to accomplish our shared goal of stronger oversight.
- **Financial Statement Audits.** The Department takes extremely seriously its obligation to be a good steward of taxpayer dollars. The Department strongly objects, however, to section 1005 of the House-passed bill, which would require the Department to receive an unqualified audit opinion or suffer a 0.5 percent discretionary budget authority penalty. Such an action is not in the best interest of predictable readiness nor the Department's ability to respond to contingencies. Moreover, the December 31, 2028 statutory date by which the Department must achieve an unqualified audit opinion remains four years out. Reducing budget authority now for failure to meet a future requirement jeopardizes our ability to meet our financial statement audit goals and increases the risk of further delaying the achievement of an unmodified audit opinion. The Department continues to work closely with the GAO to implement recommendations in GAO-23-105748 report, "DoD Financial Management: Additional Actions Needed to Achieve a Clean Audit Opinion on DoD's Financial Statements." And the Department is making progress: in FY 2023, the U.S. Marine

Corps became the first Military Service to achieve an unqualified audit opinion, offering lessons learned for how the entire Department can accomplish this same level of success. The Department remains strongly committed to accelerating audit progress.

- **Cyber Intelligence Center.** The Department strongly objects to section 1603 of the Senate-proposed bill, which would require the Secretary of Defense to establish a dedicated cyber intelligence capability to support the entire DoD. This section would limit the Department's flexibility in providing intelligence support to accomplish the cyber mission and prematurely commit the Department to expending significant financial and human capital resources in advance of a clear understanding of cyber intelligence requirements from U.S. Cyber Command and other DoD Components. Consistent with briefings to the appropriate committees, the Department is conducting a series of pilot programs to identify and prioritize specific cyber intelligence information and capability requirements within existing Defense Intelligence Components. I urge Congress to allow the completion of these programs to inform Executive and Legislative Branch decision-making to best accomplish the cyber intelligence mission.
- **Indo-Pacific Security Assistance Initiative (IPSAI).** The Department appreciates the Senate's inclusion of an IPSAI provision in section 1241 of the Senate-proposed bill. However, the Department is concerned that the House-passed bill does not include an IPSAI provision, while section 1241 of the Senate-proposed bill does not provide the full authority requested in the Administration proposal. Specifically, it is not clear that section 1241(a) provides any new authorities beyond existing statutory authorities available to the Secretary of Defense. Additionally, section 1241 omits a critical Administration-proposed provision to enable DoD to provide intelligence services to friendly military and other security forces and related civilian institutions in the Indo-Pacific region and accept third-party support from foreign governments to assist Indo-Pacific allies and partners. I strongly urge conferees to include the full requested IPSAI authority, as it would provide greater flexibility than current authorities for the Department to meet materiel and non-materiel demands of allies and partners, bridge gaps in existing authorities, and improve deterrence in the region.
- **Terminal High Altitude Aerial Defense (THAAD) Integration Funding.** The Department strongly opposes the House-passed bill's proposal included in the Defense-wide Research, Development, Testing, and Evaluation Budget lines 78 and 154 to eliminate funding to integrate THAAD with the Integrated Battle Command System. Classified analysis shows that THAAD integration is critical to improved performance against more sophisticated threats and provides substantial benefits. Eliminating funding would significantly reduce the capabilities available to Combatant Commanders. I strongly urge conferees to adopt the Senate's language on this item to authorize the full funding request for THAAD.
- **Resilience and Survivability.** The Department opposes sections 1710, 312, and 318 of the House-passed bill. Section 1710 would prohibit the use of funds to implement

resilience, readiness, and efficiency strategies connected to multiple Executive Orders related to climate change. Implementing provisions in the Executive Orders makes the Department more capable, lethal, and prepared to overcome key operational challenges. This prohibition would hinder the Department's ability to strengthen the resilience of mission-critical energy, water, and other physical infrastructure to ensure U.S. installations are ready to support homeland defense and overseas operations. Section 312 would extend the prohibition on the use of funds to recommend or require submission of certain emissions and climate data for federal contract offers for an additional four years. Section 318 would prohibit the use of funds to finalize or implement any rule based on the advanced notice of proposed rulemaking titled "Federal Acquisition Regulation: Minimizing the Risk of Climate Change in Federal Acquisitions." Sections 312 and 318 would prevent DoD from taking reasonable and manageable steps to address climate-related risks to supply chains, increasing costs for the Department.

- **Modification of Authority to Purchase Used Vessels Under the National Defense Sealift Fund.** The Department appreciates the authority included in section 128 of the Senate-proposed bill to purchase four additional used ships for the recapitalization of the Nation's sealift fleet. However, the Department urges Congress to provide the Secretary of Defense with discretionary authority to purchase used vessels without limitation on the allowable number to meet the rate of planned phase-outs in the sealift fleet. The Department also objects to section 4101 (Budget Line Item 032 under the heading of "Shipbuilding and Conversion, Navy") of the House-passed bill, which would reduce authorized funding amounts for the Navy to procure used vessels for sealift. Purchasing used commercial vessels is the most cost effective and expeditious near-term solution to recapitalize the fleet with newer and more reliable vessels at the rate required to meet fleet retirements. Having a cap on the number of used vessels the Department can purchase for sealift risks undermining the near-term readiness of the Nation's power projection capabilities.
- **Prohibition on Coverage of Certain Gender Transition Procedures and related Services Under the TRICARE Program.** The Department strongly objects to section 713 of the House-passed bill, which would prohibit DoD from providing gender affirming surgery and gender affirming hormone therapy to Service members and other individuals entitled to care under title 10, U.S. Code, chapter 55, who identify as transgender. This provision threatens the health and readiness of the Force, impedes the ability of Service members to serve to their fullest capacity, and prevents equitable access to medically necessary health care services that support the overall wellbeing of Service members and DoD beneficiaries. There is strong consensus among the U.S. medical community — including the American Medical Association, Endocrine Society, Society for Adolescent Health and Medicine, American Psychological Association, and other professional associations — regarding the medical necessity of gender affirming care. Denial of care will jeopardize the Department's ability to recruit a Total Force representative of America, a necessity in ensuring the Nation's military remains a ready and lethal force. Furthermore, denial of medically necessary treatment inhibits health care professionals' ability to provide

evidence-based care, violates ethical principles for health care professionals, and contradicts the DoD's commitment to ensuring that military personnel and their families receive the support and services they need to thrive. The Department also objects to sections 708 and 709 of the Senate-proposed bill, which would likewise limit the Department's ability to provide medically necessary health care services to Service members and DoD beneficiaries and would pose the same threats to the health and readiness of our Force and their families.

- **Modification to Other Transaction Authority.** The Department appreciates continued support of the Other Transaction Authority. However, the Department objects to section 801 of the Senate-proposed bill, which would require the written determination of the head of contracting authority for prototype projects expected to cost in excess of \$100 million but not in excess of \$500 million. In some cases, such as the Defense Innovation Unit (DIU), the head of the contracting activity is assigned outside the organizations. As written, section 801 would require DIU and like organizations to obtain approval outside their organization only for this subset of projects (\$100 million to \$500 million). The Department urges the NDAA conferees to clarify the official responsible for prototype projects to preserve the Department's ability to rapidly prototype and field new systems.
- **Post-Government Restrictions on DoD Officials.** The Department strongly objects to section 890 of the Senate-proposed bill, which would extend from two years to four years the requirement to obtain a written post-government employment opinion for certain DoD officials seeking employment with defense contractors. The Department is committed to preventing conflicts of interest, but this provision would divert limited ethics resources away from critical existing conflicts-of-interest reviews, advice, and training efforts without demonstrating additional protection to the public. The restrictions that apply to former DoD personnel are fixed at the time such personnel separate from service with DoD. Therefore, the restrictions applicable to an individual will be substantially the same at the four-year post-employment mark as they are at the two-year mark, with the exception that some restrictions will have expired. In addition, the 2024 report of the congressionally directed independent review of post-Government ethics laws that apply to former DoD personnel recommended options for more narrowly tailoring the application of section 847 to only those situations where an actual potential for conflicts of interest exists.
- **Restrictions on DoD Research with Certain Individuals and Institutions.** The Department objects to sections 225, 226, and 1077 of the House-passed bill and section 218 of the Senate-proposed bill, which would negatively impact the DoD's ability to keep pace with global technology development by limiting the pool of scientists that the Department may engage with to conduct national security-related research. Additionally, these sections would diminish DoD's ability to attract and retain top international talent vital to DoD's research goals and critical to maintaining our advantage with near-peer competitors. DoD continuously reviews security risks and existing processes are sufficient to address foreign conflicts of interest to prevent inappropriate collaboration on sensitive topics.



- **Prohibition On Award of Research or Development Contracts or Grants to Educational Institutions That Have Violated Certain Civil Rights (Section 220).** The Department strongly opposes section 220 of the Senate-proposed bill, which would have DoD take on certain responsibilities in relation to Title VI of the Civil Rights Act. The Department of Education Office of Civil Rights historically has Title VI compliance authority over education institutions and is resourced to perform this function. This provision would upend standard practice by requiring the Secretary of Defense to decide which grantees or contractors are in violation of Title VI and when they come into compliance. Administration of the provision would require DoD to decide what it means to be “in violation,” and to establish a process to decide when an institution is “in violation,” and whether such an institution qualifies for a waiver. The provision, however, contains no express grant of authority to promulgate regulations to establish such a process. The lack of clarity around the process by which DoD would determine that an organization is “in violation” of Title VI and qualifies for a waiver could increase the risk of inconsistency in implementation. The Department urges Congress to remove this provision and allow the Department of Education to continue to serve as the agency that enforces Title VI with respect to educational institutions.
- **Codification of Evidence-Based Assurance Standards via the Joint Federated Assurance Center (JFAC).** While the Department supports the codification of JFAC in Title 10 as the joint, Department-wide federation of capabilities on software and hardware supply chain risk management, the Department objects to section 912 of the Senate-proposed bill for including “evidence-based assurance standards” as a required assurance capability for the JFAC. It is not currently possible to implement or rely on evidence-based assurance, as evidence-based assurance is currently a high-risk research and development activity that has yet to produce use-cases that are executable through either commercial or government channels.
- **Countering Unmanned Aircraft Systems and Other Autonomous Systems (“Drones”).** The Department appreciates the Congress’ recognition that countering drone threats is critically important. The Department also broadly supports Congressional efforts to enhance DoD authorities, capabilities, coordination, response, and strategy involving countering drone threats. The Department thus strongly urges Congress to pass a durable, multi-year reauthorization and expansion of counter-drone authority as part of the FY 2025 NDAA, consistent with our legislative proposal as well as the bipartisan S. 1631 and H.R. 4333. This legislation relies upon a proven statutory framework and safeguards for privacy and civil liberties, which is vital to protecting the Homeland from drone threats, addresses gaps in authorities, and ensures the safe and secure integration of drones in our airspace. The Department looks forward to working with the Congress on this priority.

Reauthorizing current counter-drone authority is essential for the Departments of Homeland Security and Justice. This includes sustaining their critical missions protecting the President and Vice President, detecting and mitigating drones involved in smuggling at the border, securing federal facilities, safeguarding special events such as the Super Bowl and World Series, and preventing trafficking of weapons and

contraband at Federal prisons. The Department thus encourages Congress to expand section 352 of the Senate-proposed bill to keep pace with rapidly evolving technology and threats. The Department also urges Congress to authorize counter-drone activity by the Transportation Security Administration to protect U.S. airports, the U.S. Marshals Service to protect prisoner transports, and enable the Central Intelligence Agency, the National Aeronautics and Space Administration, and Department of State to protect their domestic facilities and personnel and ensure the Federal Aviation Administration has the authority to take such action as may be necessary to protect the safety and efficiency of the National Airspace System and to levy civil penalties against entities that misuse detection and/or mitigation systems. In addition, we must empower our communities to protect against drone threats, including by establishing a comprehensive federally supervised pilot program for State, local, Tribal, and territorial law enforcement, as well as authorizing all critical infrastructure owners and operators to use drone detection technology that is safe and effective, while mitigating collateral damage to strategic assets.

- **Access to Reproductive Healthcare for Service members and their Families.** The Department appreciates the inclusion of section 705 of the Senate-proposed bill, which would amend title 10, U.S. Code, chapter 55, to require that fertility treatments be covered under TRICARE Prime or TRICARE Select without regard to the sex, sex characteristics, gender identity, sexual orientation, diagnosis, or marital status of a Service member or dependent. The Department also strongly supports section 707 of the Senate-proposed bill, which would direct DoD to assess feasibility and cost for expanding coverage and access to In Vitro Fertilization and associated services under TRICARE, as well as other options, for Service members and their families. The Department also strongly supports section 731 of the Senate-proposed bill, which would establish contraception coverage parity under TRICARE.
- **Sensitive Compartmented Information Facility (SCIF) Accreditation.** The Department opposes section 1613 of the House-passed bill, which would direct the USD for Intelligence and Security to assign the responsibility for accreditation of DoD SCIFs to the Defense Counterintelligence and Security Agency. This section undermines DoD's authority to determine the appropriate task organization of subordinate DoD elements and conflicts with interagency policy on authorized SCIF accreditors. Furthermore, the legislation appears to exclude the Defense Intelligence Agency (DIA) from those Defense Agencies authorized to accredit SCIFs. The Secretary of Defense has assigned DIA responsibility for accrediting SCIFs for the Military Services and Combatant Commands, and as such, the provision would severely limit DoD's ability to support ongoing requirements.
- **Reduction for High-Speed Vertical Takeoff and Landing (HSVTOL).** The Department strongly opposes section 4201, line 074 ("RDT&E Defense-Wide") in the House-passed bill, which would result in a \$72.15 million reduction to the HSVTOL technology demonstrator program. The HSVTOL effort is the technology pathfinder to meet future SOF and Joint Force capability shortfalls in speed, range, access, and payload for contested environments, particularly within the Indo-Pacific Command

area of responsibility. This proposal would zero out the Department's only program that is delivering a prototype aircraft with scalable technologies to close these critical Joint capability gaps and would indefinitely delay fielding a platform leveraging these transformational technologies.

- **Expanded Child Care and Child Development Options.** The Department thanks Congress for its continued support of child care, as demonstrated by section 578 of the Senate-proposed bill. The Department continues to redesign and strengthen DoD's child development program compensation model and the modernization of the child development program staffing model. The Administration requested funding in the FY 2025 President's Budget to implement initiatives aimed at increasing recruitment and retention of care giver staff within the military child development programs.
- **Permanent Authority for Noncompetitive Appointment of Military Spouses by Federal Agencies.** The Department strongly urges Congress to make permanent the authority for noncompetitive appointment of military spouses by Federal agencies. Section 1110 of the Senate-proposed bill would ensure that this appointment authority continues to be a pathway for Federal agencies to hire military spouses when the current authorization lapses this year.
- **Support for Operations of Friendly Countries.** The Department strongly urges Congress to provide a \$950 million cap on the aggregate value of all logistical support, supplies, and services provided to friendly foreign countries for the conduct of operations under title 10, U.S. Code, section 331, through FY 2026. The proposed cap in section 1213 of the Senate-proposed bill of \$750 million would limit the Department's national security efforts to counter global terrorist threats in the Middle East and Africa, confront Russian aggression, support the defense of Israel, and assist countries participating in the Multinational Security Support mission in Haiti.
- **Department of Defense Plans.** The Department strongly opposes section 1061 of the Senate-proposed bill, which would require DoD to use specific assumptions in defense planning scenarios and operational plans, such as time horizons and munition expenditures. The Department analyzes numerous scenarios and creates multiple realistic planning assumptions when developing operational plans. Requiring these assumptions interferes with the President's and Secretary's responsibilities to provide guidance to Combatant Commands regarding operational plans. Additionally, the Department opposes sections 1065, 1236, and 1260 of the Senate-proposed bill, which would require the Department to submit DoD's plans to Congress, and would interfere with the Combatant Commanders' and Secretary's ability to candidly advise the President on operational planning matters prior to decision.
- **Notifications Related to Basing Decision-Making Process.** The Department opposes section 2809 of the Senate-proposed bill, which would broaden the Department's requirement to notify Congress of the basing decision-making process beyond only installations in the United States to installations globally. DoD is already required to notify Congress of the opening and closure of overseas bases and has a

well-defined Overseas Force Structure Changes and Host Nation Notification process in place. Including overseas locations for detailed congressional notifications that encompass consultation efforts with host nations and local governments would unnecessarily complicate and delay the Secretary of Defense's approval of overseas basing actions in support of the NDS and constrain the Secretary's options for overseas military installations decisions that could compromise the security of military units and their host nations due to public disclosure.

- **Minimum Investment for Facility Sustainment, Restoration, and Modernization (FSRM).** The Department strongly opposes section 2815 of the Senate-proposed bill, which would require a minimum investment for FSRM by military departments. The Department shares the Senate's desire to properly sustain facilities investments to protect assets, sustain readiness, and improve living and working standards for Service members and their families. This proposal would present an unfunded bill to the military departments starting at approximately \$12 billion in FY 2026 and increasing to over \$50 billion in FY 2029. While all military departments are working to improve facilities sustainment, especially where it most affects our Service members, the current sustainment models used by the Military Departments provide a more comprehensive evaluation of requirements, risk, and balancing priorities within fiscal constraints.
- **Military Justice Matters.** The Department opposes section 544 of the Senate-proposed bill, which would require the Joint Service Committee (JSC) on Military Justice to submit a report that analyzes the advisability of modifying rule 513 of the Military Rules of Evidence and recommending changes based on that analysis. The JSC Voting Group consists of five military officers, usually in the grade of O-6. Politically accountable civilian officials should make the determinations and, if appropriate, recommendations that this provision would require.

The Department welcomes section 538 of the Senate-proposed bill, which would renew and extend the Defense Advisory Committee on Investigation, Prosecution and Defense of Sexual Assault in the Armed Forces (DAC-IPAD), and shares the Senate's view that the DAC-IPAD will continue to play a critical role in providing independent oversight and expertise in assessing ongoing implementation of the bipartisan military justice reforms.

The Department welcomes section 531 of the Senate-proposed bill, which will consolidate reporting requirements with respect to military justice reforms across the military services.

- **Requirements for Workforce Analysis, Staffing, and Administrative Support.** The Department appreciates the Senate Armed Services Committee's interest in further institutionalizing the statutory responsibilities of the ASD(SO/LIC) for overseeing the special operations enterprise (section 903), and in ensuring the adequate staffing of the Office of the ASD for Industrial Base Policy (section 908). The Department notes that section 903 codifies work the Department has wholly

endorsed and, in some cases, has already initiated. However, the Department has concerns with regard to the deployment of resources, space, and staffing. The Department has a robust and disciplined process for allocating and prioritizing resources within the broader context of the OSD as a whole, consistent with its mission. The Department looks forward to working with Congress to ensure these provisions do not constrain the Secretary's discretion to organize and manage the Department and, in these instances, OSD, consistent with its overall mission requirements. This is particularly challenging given the pattern of prescribed organizational structure that the Department has had to address in recent years.

- **U.S. Armed Forces Personnel in Northeast Syria.** The Department strongly opposes section 1223 of the Senate-proposed bill, which would prohibit the Secretary of Defense from reducing the Total Force numbers of members of the United States Armed Forces serving in northeast Syria to fewer than 400 until the Secretary certifies that certain conditions are met. This would prevent the President from reducing force-levels in Syria if he deems it necessary or appropriate to do so based on force protection needs, evolving mission requirements, or other purposes outside the certification conditions and accordingly would directly infringe upon the President's constitutional authority as the Commander in Chief.
- **Establishment of Major Mishap Incident Designation Classification.** The Department opposes section 1045 of the Senate-proposed bill, which would establish a new mishap designation based on cost and number of fatalities. DoD is currently working to develop a new policy to address all "high-interest accidents," a term which is broader in scope than the proposed "major mishap incident" designation. Section 1045 would undermine standardization of legal accident investigation processes, greatly hindering the quality, objectivity, timeliness, and transparency of investigations. Requiring mandatory administrative processing for discharge of misconduct, as outlined in section 1045, could impede the effectiveness of accident investigations by creating a chilling effect on cooperation, unnecessarily blur boundaries between accident investigations and criminal investigations, and result in consequences disproportionate to the actual misconduct.
- **Guantanamo Bay (GTMO) Prohibitions.** The Department opposes sections 1031, 1032, 1033, and 1034 of the Senate-proposed bill, which, respectively, would extend the prohibitions on the use of funds to transfer GTMO detainees to the United States; to construct or modify facilities in the United States to house transferred GTMO detainees; transfer or release GTMO detainees to certain countries; and close or relinquish control of GTMO. These provisions would interfere with the President's ability to determine the appropriate disposition of GTMO detainees and to make important foreign policy and national security determinations regarding whether and under what circumstances to transfer detainees to the custody or effective control of foreign countries.
- **Cyber Threat Tabletop Exercises.** The Department appreciates the Senate Armed Services Committee's interest in ensuring the homeland is prepared for a wide range

of cyber threats. However, the Department opposes section 1604 of the Senate-proposed bill, as drafted, which would require DoD to develop tabletop exercises designed to address a wide-range of threat-relevant cyber-attack scenarios that may affect defense critical infrastructure (DCI) for the purposes of homeland defense and mission assurance. DoD is responsible for the evaluation of the risk to and prioritization of mitigations for sector-specific DCI, in coordination with the Department of Homeland Security's Cybersecurity and Infrastructure Security Agency (CISA) in its capacity as the National Coordinator for the Security and Resilience of Critical Infrastructure, the Intelligence Community, the relevant Sector Risk Management Agencies (SRMA), and other Federal departments and agencies. A requirement for DoD to develop tabletop exercises in support of non-DoD DCI would conflict with the responsibilities of CISA and the SRMAs. Instead, the Department recommends the provision affirm the existing statutory responsibilities of DoD, CISA, and SRMAs in the protection of DCI.

- **Prohibition on Use of Funds to Support Access to National Nuclear Security Administration (NNSA) Facilities.** The Department objects to section 3120 of the Senate-proposed bill, which would prohibit citizens from China, Russia, Iran, and North Korea from visiting any NNSA facility. The provision would severely limit our ability to engage with experts on nonproliferation of biological, chemical, and nuclear weapons. The existing visitor-screening process at the national laboratories and nuclear weapons production facilities are specifically designed to screen for visitor threats and prevent access to protected information.
- **Ambler Mining District in Alaska.** The Department strongly opposes section 1094 of the Senate-proposed bill, which would require the Secretary of the Interior to select an action alternative as the preferred alternative for the Ambler Mining District Industrial Access Road Project (Ambler Road) and issue all rights-of-way necessary for its implementation. This provision directly conflicts with the Bureau of Land Management's April 19, 2024, final environmental analysis, including the evaluation under section 810 of the Alaska National Interest Lands Conservation Act of impacts on subsistence uses, and June 26, 2024, Record of Decision on the Ambler Road project, which adopted the "No action" alternative, denying the Alaska Industrial Development and Export Authority's right-of-way request. The environmental analysis that led to the Record of Decision was the result of an extensive and thorough process informed by consultation with 21 Tribal Nations and 16 Alaska Native Corporations, as well as significant public engagement. The proposed road would span over 210 miles of significant wildlife habitat and pristine waters that are vital for subsistence along the iconic Brooks Range in north central Alaska. This provision would significantly impact resources, including those supporting important subsistence uses, in ways that cannot be adequately mitigated.
- **Sourcing Requirements for Strategic and Sensitive Materials.** The Department opposes section 879 of the Senate-proposed bill, would expand the scope of certain acquisitions provisions to provide a categorical exception for the acquisition of foreign sourced strategic materials and sensitive materials for use outside the United States in

non-contingency operations. The Department recognizes the need for the existing exemption, which is used only in the context of contingency operations, outside the United States, however, it is vital that the provision not be expanded for non-contingency operations so we can continue to support and maintain our strategic readiness by encouraging a robust domestic strategic materials industrial base.

In addition to your support in the annual NDAA, I appreciate the strong support of Congress to fund programs that deliver on the NDS and help the Department defend the Nation, take care of our people, and succeed through teamwork. One of the most important steps Congress can take to help us achieve these goals is pass on-time Defense and Military Construction Appropriations Acts. Our budget is designed to implement the NDS, which requires on-time, full-year appropriations.

Thank you for your continued leadership and support of the Department. I look forward to working with you to advance our Nation's security.

Sincerely,

A handwritten signature in black ink, appearing to read "R. F. Wicker". The signature is fluid and cursive, with a prominent initial "R" and a long, sweeping tail.

cc:  
The Honorable Roger F. Wicker  
Ranking Member



SECRETARY OF DEFENSE  
1000 DEFENSE PENTAGON  
WASHINGTON, DC 20301-1000

SEP 26 2024

The Honorable Mike Rogers  
Chairman  
Committee on Armed Services  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

I write to extend my appreciation for the support you have provided to the Department of Defense (DoD) as you work toward the final version of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2025. In addition, I would like to highlight topics of significant concern for the Department. If left unaddressed, certain provisions in the House-passed or Senate-proposed bills will substantially impact the Department's ability to accomplish our strategic goals.

The Department's three main priorities remain unchanged: Defend the Nation, Take Care of Our People, and Succeed through Teamwork. The 2022 National Defense Strategy (NDS) prioritizes protecting the American people, expanding America's prosperity, and realizing and defending our democratic values. The Department is grateful that the current versions of the FY 2025 NDAA bills make significant investments in these and other areas in support of our national security.

Nevertheless, the respective FY 2025 House-passed and Senate-proposed NDAA bills include certain provisions of significant concern to the Department. I encourage Members to consider the following issues and requests as you move toward final passage of the bill:

- **Shipbuilding and Force Modernization.** The Department strongly opposes section 129 of the Senate-proposed bill and section 1018 of the House-passed bill, which would authorize and provide funding in FY 2025 for a second Virginia Class submarine, which industry would be unable to produce on a reasonable schedule. In addition, adding a second submarine would require the Department to reduce the Next Generation Fighter program by \$400 million, making the fighter program unexecutable and degrading the Navy's ability to field next generation aircraft capabilities required in the 2033 to 2037 timeframe. The Department urges Congress to support near-term submarine industrial base investments and the aviation priorities proposed in the FY 2025 Budget request.
- **Force Modernization.** The Department strongly opposes section 152 of the House-passed bill and sections 134 and 131 of the Senate-proposed bill. The Department strongly supports including language from the Administration's legislative proposal that would modify the limitation on F-22 Aircraft Force Structure to allow necessary force structure changes. Section 152 of the House-passed bill requires a Primary



Mission Aircraft Inventory minimum of 1,106. This minimum would impede the Department's modernization efforts by redirecting personnel, infrastructure, and funding required to deter, and if necessary, defeat the People's Republic of China (PRC). The provision would also require the Air Force to maintain less-capable fighters and would decrease the Department's ability to determine operational requirements. Section 134 of the Senate-proposed bill would set a requirement to recapitalize the 25 Air National Guard fighter squadrons at a similar rate as Active Component fighter squadrons. This requirement would infringe on DoD's ability to manage military forces in a manner that supports national security objectives. It would also pose a strategic risk to the Air National Guard and Active Component fighter squadrons by not affording flexibility and time to develop recapitalization plans. Section 131 of the Senate-proposed bill would restrict the Air Force from reducing E-3 inventory below 16 until sufficient E-7s are procured to accomplish the E-3 mission. The Department needs to balance mission and fiscal demands in pursuit of NDS objectives and views this section as overly restrictive and as eliminating other more fiscally appropriate options available. The omission of Administration-proposed language repealing the limitation on retirement of F-22 Block 20 aircraft in the House-passed bill would reduce the Department's ability to optimize its force and would also increase sustainment costs, further slowing the pace of modernization.

- **Air Force Strategic Basing Process.** The Department strongly opposes section 2849 of the Senate-proposed bill, which would dictate rigid and inefficient requirements for Air Force basing decisions that would nearly eliminate senior military leader judgment from the process, decrease the ability to meet operational requirements, and lead to inconsistent strategic basing actions across the Services. The Air Force is undergoing a rapid modernization effort to implement the 2022 NDS and counter the PRC's aggressive military buildup of forces in the Indo-Pacific region. This provision would significantly complicate and delay the deployment of critical Air Force capabilities, slow the basing process, and reduce readiness and resiliency of military bases and installations.
- **Basic Needs Allowance (BNA).** The Department is strongly committed to taking care of the Nation's Service members and their families and urges Congress to support the Administration's FY 2025 Budget request to increase the eligibility and payment thresholds for the BNA from 150 percent to 200 percent of the Federal Poverty Guidelines. Such an increase will enable DoD to provide expanded payments to a targeted group of Service members with the greatest need.
- **Force Structure Limitations.** The Department strongly opposes section 4301, line 110, under the heading "Operation and Maintenance, Navy Operating Forces," of the Senate-proposed bill and section 1020 of the House-passed bill, which would prevent the Navy from making necessary force structure changes to divest certain platforms to prioritize investments in modernization, readiness, weapons, and other areas to ensure the Nation's force structure remains capable and relevant to current and future challenges. These provisions would severely limit the Department's authority in this regard.

- **Reprioritization of Military Construction Funding to Unrequested Projects.** The Department opposes the realignment of military construction funding from priority projects to other projects. Contrary to the Administration’s fiscally responsible policy to fully fund executable projects, the Senate-proposed bill proposes to fund 23 military construction projects incrementally. This would effectively create an unfunded obligation of almost \$2.4 billion needed to successfully execute these projects over time and would divert those funds to projects that are either not executable in FY 2025 or of lower priority than the requested projects.
- **Junior Enlisted Basic Pay Increase.** The Department is committed to taking care of our Service members and their families and appreciates the Committee’s concern for the needs of the most junior enlisted members. With the support of Congress, the Department has taken significant actions to increase resources for Service members. In January, Service members received a 5.2 percent basic pay increase — the largest since 2003 — coupled with an average 5.4 percent increase in basic allowance for housing and a 1.7 percent increase in basic allowance for subsistence. The President’s FY 2025 Budget Request includes a basic pay raise of 4.5 percent. If the President’s FY 2025 request is enacted, Service members will have received a 15 percent basic pay increase in just three years. In this context, the Department strongly objects to making the additional, permanent change to the basic pay schedule outlined in section 1801 of the House-passed bill before the completion of the Fourteenth Quadrennial Review of Military Compensation in 2025, which is reviewing basic pay increases and other “Taking Care of People” initiatives to determine if further changes are advisable. Further, the proposed changes would either eliminate or significantly decrease the pay differential between junior enlisted and more senior enlisted pay. Mid-grade and senior enlisted members have greater responsibilities and leadership positions, and a pay increase only for junior enlisted would eliminate the pay differential that mid-grade and more senior enlisted receive for their substantial responsibilities. The proposed increase in the House bill is limited to junior enlisted members and does not reflect a holistic look at the pay table, to include senior enlisted members (and officers). Additionally, section 1801 would cost over \$3.3 billion in FY 2025 and a total of more than \$21.9 billion from FYs 2025 to 2029.
- **Diversity, Equity, and Inclusion.** The Department strongly opposes the provisions in the House-passed bill (sections 528, 573, 599c, 903, and 1116) and Senate-proposed bill (sections 923 and 1113), as well as the reductions in budgetary authority in the Senate funding tables (sections 4301 and 4401) that limit our ability to build cohesive teams and fully leverage the unique backgrounds, skillsets, and perspectives of the Total Force. DoD works to promote dignity, respect, and equal opportunity for all who serve in our Nation’s defense, and the personnel who support these efforts work to ensure that Service members and DoD civilians — regardless of race, ethnicity, or gender — work together as effectively as possible and reach their highest potential within the Department. The enactment of these provisions would send a troubling message to Service members and potential recruits, suggesting that the Department does not value the very diversity of the Nation it serves.

- **Chief Management Officer (CMO).** The Department strongly opposes section 909 of the Senate-proposed bill. This section would reestablish the CMO, resulting in structurally the same outcomes as the CMO position that the Congress eliminated. That elimination, which followed an independent external review of the CMO, directed by the Congress, concluded that the CMO had been ineffective in implementing its statutory duties and encouraged its disestablishment. As written, this section would create gaps and inefficiencies in the overall management and oversight of DoD and undermine the ability of other Principal Staff Assistants to carry out their responsibilities. Finally, as the Government Accountability Office (GAO) has warned in the past, reorganization would only detract from needed focus on meeting key business process and financial management goals. Of note, since the disestablishment of the CMO, GAO has increased its rating on DoD's leadership in these areas.
- **Assistant Secretary of Defense for Nuclear Deterrence Policy and Programs.** The Department strongly objects to section 1525 of the Senate-proposed bill, which would carve out functions and authorities from the Office of the Under Secretary of Defense (USD) for Acquisition & Sustainment and the Office of the USD for Policy to create a new Assistant Secretary of Defense for Nuclear Deterrence Policy and Programs (ASD(NDPP)) that reports directly to the Secretary of Defense. The proposed ASD(NDPP) position is ill-defined, poses significant implementation challenges, and has the potential to create unclear lines of authority within the DoD. Nuclear issues are a top priority for the Department and receive substantial senior leader attention up to and including the Deputy Secretary and Secretary of Defense. The Department looks forward to working with the House and Senate to consider options that best ensure strategic deterrence.
- **Missile Defense Site for Protection of Homeland.** The Department strongly objects to section 1633 of the House-passed bill, which would mandate the construction of an additional homeland missile defense site. The U.S. homeland is currently protected by missile defense sites in Alaska and California. DoD does not have an operational requirement for a third site at this time, which could cost as much as \$5 billion for site construction and procurement of interceptors. DoD continues to prioritize the development of the Next Generation Interceptor (NGI), which can protect all 50 states, with flight testing beginning in 2027 and operational emplacement beginning in 2028 in the 20 available silos in Alaska. DoD also retains the option of replacing the older interceptors in Alaska and California with NGIs to further improve the probability of successfully intercepting missile threats.
- **Prohibition on Realignment or Reduction of Special Operations Forces (SOF) End Strength Authorizations.** The Department strongly objects to section 1044 of the House-passed bill, which would prevent reducing or realigning SOF end-strength authorizations for all of calendar years 2025 and 2026. The Army conducted extensive analysis indicating that the existing Army SOF force structure meets or exceeds demand in large-scale conflict relative to other capabilities. As a result, the Secretary of Defense directed ASD for Special Operations/Low-Intensity Conflict (SO/LIC) to reduce Army SOF by approximately 3,000 billets. This provision would

constrain the ability of the Department's leadership to organize, train, and equip forces in support of the NDS. Further, this provision would limit DoD's ability to shape the Force in response to emerging threats and dynamic needs and require the Army to consider reductions to other parts of the Force.

- **DoD Oversight of Intelligence, Intelligence-related, and Sensitive Activities.** The Department strongly objects to section 930 of the House-passed NDAA and corresponding language in section 502 of the House Permanent Select Committee on Intelligence markup to the Intelligence Authorization Act, which would assign by statute responsibility to the DoD Senior Intelligence Oversight Official (SIOO) for oversight of defense operational activities that the SIOO does not currently have in DoD policy. The Department recognizes the intent to ensure stronger oversight of sensitive activities. In furtherance of that objective, I have directed the SIOO, in coordination with the USD for Intelligence & Security, the USD for Policy, the USD for Acquisition & Sustainment, the Special Access Program Central Office, and the ASD(SO/LIC), to obtain recommendations from DoD components and present options to reform DoD execution and oversight of sensitive activities, including how best to conduct independent oversight within DoD for all of the Department's sensitive activities and operations. At my direction, SIOO, with support from appropriate DoD Components, will also initiate a formal review of the events precipitating this proposal, specifically identifying and proposing recommendations to address any larger systematic, policy and oversight issues that may have contributed to such events. Enacting these provisions, along with the amplifying explanation within the House and Senate classified annexes to the committee reports accompanying the respective NDAA bills, would prematurely determine roles, oversight responsibility, and DoD structure in advance of these efforts and would unnecessarily include the DoD Office of Inspector General in a policy reform effort. I urge Congress to allow the Department to complete its assessment and provide me with recommendations for changes in DoD policy before considering statutory changes, preserving my ability to organize the Office of the Secretary of Defense (OSD) in the most effective manner to accomplish our shared goal of stronger oversight.
- **Financial Statement Audits.** The Department takes extremely seriously its obligation to be a good steward of taxpayer dollars. The Department strongly objects, however, to section 1005 of the House-passed bill, which would require the Department to receive an unqualified audit opinion or suffer a 0.5 percent discretionary budget authority penalty. Such an action is not in the best interest of predictable readiness nor the Department's ability to respond to contingencies. Moreover, the December 31, 2028 statutory date by which the Department must achieve an unqualified audit opinion remains four years out. Reducing budget authority now for failure to meet a future requirement jeopardizes our ability to meet our financial statement audit goals and increases the risk of further delaying the achievement of an unmodified audit opinion. The Department continues to work closely with the GAO to implement recommendations in GAO-23-105748 report, "DoD Financial Management: Additional Actions Needed to Achieve a Clean Audit Opinion on DoD's Financial Statements." And the Department is making progress: in FY 2023, the U.S. Marine

Corps became the first Military Service to achieve an unqualified audit opinion, offering lessons learned for how the entire Department can accomplish this same level of success. The Department remains strongly committed to accelerating audit progress.

- **Cyber Intelligence Center.** The Department strongly objects to section 1603 of the Senate-proposed bill, which would require the Secretary of Defense to establish a dedicated cyber intelligence capability to support the entire DoD. This section would limit the Department's flexibility in providing intelligence support to accomplish the cyber mission and prematurely commit the Department to expending significant financial and human capital resources in advance of a clear understanding of cyber intelligence requirements from U.S. Cyber Command and other DoD Components. Consistent with briefings to the appropriate committees, the Department is conducting a series of pilot programs to identify and prioritize specific cyber intelligence information and capability requirements within existing Defense Intelligence Components. I urge Congress to allow the completion of these programs to inform Executive and Legislative Branch decision-making to best accomplish the cyber intelligence mission.
- **Indo-Pacific Security Assistance Initiative (IPSAI).** The Department appreciates the Senate's inclusion of an IPSAI provision in section 1241 of the Senate-proposed bill. However, the Department is concerned that the House-passed bill does not include an IPSAI provision, while section 1241 of the Senate-proposed bill does not provide the full authority requested in the Administration proposal. Specifically, it is not clear that section 1241(a) provides any new authorities beyond existing statutory authorities available to the Secretary of Defense. Additionally, section 1241 omits a critical Administration-proposed provision to enable DoD to provide intelligence services to friendly military and other security forces and related civilian institutions in the Indo-Pacific region and accept third-party support from foreign governments to assist Indo-Pacific allies and partners. I strongly urge conferees to include the full requested IPSAI authority, as it would provide greater flexibility than current authorities for the Department to meet materiel and non-materiel demands of allies and partners, bridge gaps in existing authorities, and improve deterrence in the region.
- **Terminal High Altitude Aerial Defense (THAAD) Integration Funding.** The Department strongly opposes the House-passed bill's proposal included in the Defense-wide Research, Development, Testing, and Evaluation Budget lines 78 and 154 to eliminate funding to integrate THAAD with the Integrated Battle Command System. Classified analysis shows that THAAD integration is critical to improved performance against more sophisticated threats and provides substantial benefits. Eliminating funding would significantly reduce the capabilities available to Combatant Commanders. I strongly urge conferees to adopt the Senate's language on this item to authorize the full funding request for THAAD.
- **Resilience and Survivability.** The Department opposes sections 1710, 312, and 318 of the House-passed bill. Section 1710 would prohibit the use of funds to implement

resilience, readiness, and efficiency strategies connected to multiple Executive Orders related to climate change. Implementing provisions in the Executive Orders makes the Department more capable, lethal, and prepared to overcome key operational challenges. This prohibition would hinder the Department's ability to strengthen the resilience of mission-critical energy, water, and other physical infrastructure to ensure U.S. installations are ready to support homeland defense and overseas operations. Section 312 would extend the prohibition on the use of funds to recommend or require submission of certain emissions and climate data for federal contract offers for an additional four years. Section 318 would prohibit the use of funds to finalize or implement any rule based on the advanced notice of proposed rulemaking titled "Federal Acquisition Regulation: Minimizing the Risk of Climate Change in Federal Acquisitions." Sections 312 and 318 would prevent DoD from taking reasonable and manageable steps to address climate-related risks to supply chains, increasing costs for the Department.

- **Modification of Authority to Purchase Used Vessels Under the National Defense Sealift Fund.** The Department appreciates the authority included in section 128 of the Senate-proposed bill to purchase four additional used ships for the recapitalization of the Nation's sealift fleet. However, the Department urges Congress to provide the Secretary of Defense with discretionary authority to purchase used vessels without limitation on the allowable number to meet the rate of planned phase-outs in the sealift fleet. The Department also objects to section 4101 (Budget Line Item 032 under the heading of "Shipbuilding and Conversion, Navy") of the House-passed bill, which would reduce authorized funding amounts for the Navy to procure used vessels for sealift. Purchasing used commercial vessels is the most cost effective and expeditious near-term solution to recapitalize the fleet with newer and more reliable vessels at the rate required to meet fleet retirements. Having a cap on the number of used vessels the Department can purchase for sealift risks undermining the near-term readiness of the Nation's power projection capabilities.
- **Prohibition on Coverage of Certain Gender Transition Procedures and related Services Under the TRICARE Program.** The Department strongly objects to section 713 of the House-passed bill, which would prohibit DoD from providing gender affirming surgery and gender affirming hormone therapy to Service members and other individuals entitled to care under title 10, U.S. Code, chapter 55, who identify as transgender. This provision threatens the health and readiness of the Force, impedes the ability of Service members to serve to their fullest capacity, and prevents equitable access to medically necessary health care services that support the overall wellbeing of Service members and DoD beneficiaries. There is strong consensus among the U.S. medical community — including the American Medical Association, Endocrine Society, Society for Adolescent Health and Medicine, American Psychological Association, and other professional associations — regarding the medical necessity of gender affirming care. Denial of care will jeopardize the Department's ability to recruit a Total Force representative of America, a necessity in ensuring the Nation's military remains a ready and lethal force. Furthermore, denial of medically necessary treatment inhibits health care professionals' ability to provide

evidence-based care, violates ethical principles for health care professionals, and contradicts the DoD's commitment to ensuring that military personnel and their families receive the support and services they need to thrive. The Department also objects to sections 708 and 709 of the Senate-proposed bill, which would likewise limit the Department's ability to provide medically necessary health care services to Service members and DoD beneficiaries and would pose the same threats to the health and readiness of our Force and their families.

- **Modification to Other Transaction Authority.** The Department appreciates continued support of the Other Transaction Authority. However, the Department objects to section 801 of the Senate-proposed bill, which would require the written determination of the head of contracting authority for prototype projects expected to cost in excess of \$100 million but not in excess of \$500 million. In some cases, such as the Defense Innovation Unit (DIU), the head of the contracting activity is assigned outside the organizations. As written, section 801 would require DIU and like organizations to obtain approval outside their organization only for this subset of projects (\$100 million to \$500 million). The Department urges the NDAA conferees to clarify the official responsible for prototype projects to preserve the Department's ability to rapidly prototype and field new systems.
- **Post-Government Restrictions on DoD Officials.** The Department strongly objects to section 890 of the Senate-proposed bill, which would extend from two years to four years the requirement to obtain a written post-government employment opinion for certain DoD officials seeking employment with defense contractors. The Department is committed to preventing conflicts of interest, but this provision would divert limited ethics resources away from critical existing conflicts-of-interest reviews, advice, and training efforts without demonstrating additional protection to the public. The restrictions that apply to former DoD personnel are fixed at the time such personnel separate from service with DoD. Therefore, the restrictions applicable to an individual will be substantially the same at the four-year post-employment mark as they are at the two-year mark, with the exception that some restrictions will have expired. In addition, the 2024 report of the congressionally directed independent review of post-Government ethics laws that apply to former DoD personnel recommended options for more narrowly tailoring the application of section 847 to only those situations where an actual potential for conflicts of interest exists.
- **Restrictions on DoD Research with Certain Individuals and Institutions.** The Department objects to sections 225, 226, and 1077 of the House-passed bill and section 218 of the Senate-proposed bill, which would negatively impact the DoD's ability to keep pace with global technology development by limiting the pool of scientists that the Department may engage with to conduct national security-related research. Additionally, these sections would diminish DoD's ability to attract and retain top international talent vital to DoD's research goals and critical to maintaining our advantage with near-peer competitors. DoD continuously reviews security risks and existing processes are sufficient to address foreign conflicts of interest to prevent inappropriate collaboration on sensitive topics.

- **Prohibition On Award of Research or Development Contracts or Grants to Educational Institutions That Have Violated Certain Civil Rights (Section 220).** The Department strongly opposes section 220 of the Senate-proposed bill, which would have DoD take on certain responsibilities in relation to Title VI of the Civil Rights Act. The Department of Education Office of Civil Rights historically has Title VI compliance authority over education institutions and is resourced to perform this function. This provision would upend standard practice by requiring the Secretary of Defense to decide which grantees or contractors are in violation of Title VI and when they come into compliance. Administration of the provision would require DoD to decide what it means to be “in violation,” and to establish a process to decide when an institution is “in violation,” and whether such an institution qualifies for a waiver. The provision, however, contains no express grant of authority to promulgate regulations to establish such a process. The lack of clarity around the process by which DoD would determine that an organization is “in violation” of Title VI and qualifies for a waiver could increase the risk of inconsistency in implementation. The Department urges Congress to remove this provision and allow the Department of Education to continue to serve as the agency that enforces Title VI with respect to educational institutions.
- **Codification of Evidence-Based Assurance Standards via the Joint Federated Assurance Center (JFAC).** While the Department supports the codification of JFAC in Title 10 as the joint, Department-wide federation of capabilities on software and hardware supply chain risk management, the Department objects to section 912 of the Senate-proposed bill for including “evidence-based assurance standards” as a required assurance capability for the JFAC. It is not currently possible to implement or rely on evidence-based assurance, as evidence-based assurance is currently a high-risk research and development activity that has yet to produce use-cases that are executable through either commercial or government channels.
- **Countering Unmanned Aircraft Systems and Other Autonomous Systems (“Drones”).** The Department appreciates the Congress’ recognition that countering drone threats is critically important. The Department also broadly supports Congressional efforts to enhance DoD authorities, capabilities, coordination, response, and strategy involving countering drone threats. The Department thus strongly urges Congress to pass a durable, multi-year reauthorization and expansion of counter-drone authority as part of the FY 2025 NDAA, consistent with our legislative proposal as well as the bipartisan S. 1631 and H.R. 4333. This legislation relies upon a proven statutory framework and safeguards for privacy and civil liberties, which is vital to protecting the Homeland from drone threats, addresses gaps in authorities, and ensures the safe and secure integration of drones in our airspace. The Department looks forward to working with the Congress on this priority.

Reauthorizing current counter-drone authority is essential for the Departments of Homeland Security and Justice. This includes sustaining their critical missions protecting the President and Vice President, detecting and mitigating drones involved in smuggling at the border, securing federal facilities, safeguarding special events such as the Super Bowl and World Series, and preventing trafficking of weapons and



contraband at Federal prisons. The Department thus encourages Congress to expand section 352 of the Senate-proposed bill to keep pace with rapidly evolving technology and threats. The Department also urges Congress to authorize counter-drone activity by the Transportation Security Administration to protect U.S. airports, the U.S. Marshals Service to protect prisoner transports, and enable the Central Intelligence Agency, the National Aeronautics and Space Administration, and Department of State to protect their domestic facilities and personnel and ensure the Federal Aviation Administration has the authority to take such action as may be necessary to protect the safety and efficiency of the National Airspace System and to levy civil penalties against entities that misuse detection and/or mitigation systems. In addition, we must empower our communities to protect against drone threats, including by establishing a comprehensive federally supervised pilot program for State, local, Tribal, and territorial law enforcement, as well as authorizing all critical infrastructure owners and operators to use drone detection technology that is safe and effective, while mitigating collateral damage to strategic assets.

- **Access to Reproductive Healthcare for Service members and their Families.** The Department appreciates the inclusion of section 705 of the Senate-proposed bill, which would amend title 10, U.S. Code, chapter 55, to require that fertility treatments be covered under TRICARE Prime or TRICARE Select without regard to the sex, sex characteristics, gender identity, sexual orientation, diagnosis, or marital status of a Service member or dependent. The Department also strongly supports section 707 of the Senate-proposed bill, which would direct DoD to assess feasibility and cost for expanding coverage and access to In Vitro Fertilization and associated services under TRICARE, as well as other options, for Service members and their families. The Department also strongly supports section 731 of the Senate-proposed bill, which would establish contraception coverage parity under TRICARE.
- **Sensitive Compartmented Information Facility (SCIF) Accreditation.** The Department opposes section 1613 of the House-passed bill, which would direct the USD for Intelligence and Security to assign the responsibility for accreditation of DoD SCIFs to the Defense Counterintelligence and Security Agency. This section undermines DoD's authority to determine the appropriate task organization of subordinate DoD elements and conflicts with interagency policy on authorized SCIF accreditors. Furthermore, the legislation appears to exclude the Defense Intelligence Agency (DIA) from those Defense Agencies authorized to accredit SCIFs. The Secretary of Defense has assigned DIA responsibility for accrediting SCIFs for the Military Services and Combatant Commands, and as such, the provision would severely limit DoD's ability to support ongoing requirements.
- **Reduction for High-Speed Vertical Takeoff and Landing (HSVTOL).** The Department strongly opposes section 4201, line 074 ("RDT&E Defense-Wide") in the House-passed bill, which would result in a \$72.15 million reduction to the HSVTOL technology demonstrator program. The HSVTOL effort is the technology pathfinder to meet future SOF and Joint Force capability shortfalls in speed, range, access, and payload for contested environments, particularly within the Indo-Pacific Command

area of responsibility. This proposal would zero out the Department's only program that is delivering a prototype aircraft with scalable technologies to close these critical Joint capability gaps and would indefinitely delay fielding a platform leveraging these transformational technologies.

- **Expanded Child Care and Child Development Options.** The Department thanks Congress for its continued support of child care, as demonstrated by section 578 of the Senate-proposed bill. The Department continues to redesign and strengthen DoD's child development program compensation model and the modernization of the child development program staffing model. The Administration requested funding in the FY 2025 President's Budget to implement initiatives aimed at increasing recruitment and retention of care giver staff within the military child development programs.
- **Permanent Authority for Noncompetitive Appointment of Military Spouses by Federal Agencies.** The Department strongly urges Congress to make permanent the authority for noncompetitive appointment of military spouses by Federal agencies. Section 1110 of the Senate-proposed bill would ensure that this appointment authority continues to be a pathway for Federal agencies to hire military spouses when the current authorization lapses this year.
- **Support for Operations of Friendly Countries.** The Department strongly urges Congress to provide a \$950 million cap on the aggregate value of all logistical support, supplies, and services provided to friendly foreign countries for the conduct of operations under title 10, U.S. Code, section 331, through FY 2026. The proposed cap in section 1213 of the Senate-proposed bill of \$750 million would limit the Department's national security efforts to counter global terrorist threats in the Middle East and Africa, confront Russian aggression, support the defense of Israel, and assist countries participating in the Multinational Security Support mission in Haiti.
- **Department of Defense Plans.** The Department strongly opposes section 1061 of the Senate-proposed bill, which would require DoD to use specific assumptions in defense planning scenarios and operational plans, such as time horizons and munition expenditures. The Department analyzes numerous scenarios and creates multiple realistic planning assumptions when developing operational plans. Requiring these assumptions interferes with the President's and Secretary's responsibilities to provide guidance to Combatant Commands regarding operational plans. Additionally, the Department opposes sections 1065, 1236, and 1260 of the Senate-proposed bill, which would require the Department to submit DoD's plans to Congress, and would interfere with the Combatant Commanders' and Secretary's ability to candidly advise the President on operational planning matters prior to decision.
- **Notifications Related to Basing Decision-Making Process.** The Department opposes section 2809 of the Senate-proposed bill, which would broaden the Department's requirement to notify Congress of the basing decision-making process beyond only installations in the United States to installations globally. DoD is already required to notify Congress of the opening and closure of overseas bases and has a

well-defined Overseas Force Structure Changes and Host Nation Notification process in place. Including overseas locations for detailed congressional notifications that encompass consultation efforts with host nations and local governments would unnecessarily complicate and delay the Secretary of Defense's approval of overseas basing actions in support of the NDS and constrain the Secretary's options for overseas military installations decisions that could compromise the security of military units and their host nations due to public disclosure.

- **Minimum Investment for Facility Sustainment, Restoration, and Modernization (FSRM).** The Department strongly opposes section 2815 of the Senate-proposed bill, which would require a minimum investment for FSRM by military departments. The Department shares the Senate's desire to properly sustain facilities investments to protect assets, sustain readiness, and improve living and working standards for Service members and their families. This proposal would present an unfunded bill to the military departments starting at approximately \$12 billion in FY 2026 and increasing to over \$50 billion in FY 2029. While all military departments are working to improve facilities sustainment, especially where it most affects our Service members, the current sustainment models used by the Military Departments provide a more comprehensive evaluation of requirements, risk, and balancing priorities within fiscal constraints.
- **Military Justice Matters.** The Department opposes section 544 of the Senate-proposed bill, which would require the Joint Service Committee (JSC) on Military Justice to submit a report that analyzes the advisability of modifying rule 513 of the Military Rules of Evidence and recommending changes based on that analysis. The JSC Voting Group consists of five military officers, usually in the grade of O-6. Politically accountable civilian officials should make the determinations and, if appropriate, recommendations that this provision would require.

The Department welcomes section 538 of the Senate-proposed bill, which would renew and extend the Defense Advisory Committee on Investigation, Prosecution and Defense of Sexual Assault in the Armed Forces (DAC-IPAD), and shares the Senate's view that the DAC-IPAD will continue to play a critical role in providing independent oversight and expertise in assessing ongoing implementation of the bipartisan military justice reforms.

The Department welcomes section 531 of the Senate-proposed bill, which will consolidate reporting requirements with respect to military justice reforms across the military services.

- **Requirements for Workforce Analysis, Staffing, and Administrative Support.** The Department appreciates the Senate Armed Services Committee's interest in further institutionalizing the statutory responsibilities of the ASD(SO/LIC) for overseeing the special operations enterprise (section 903), and in ensuring the adequate staffing of the Office of the ASD for Industrial Base Policy (section 908). The Department notes that section 903 codifies work the Department has wholly

endorsed and, in some cases, has already initiated. However, the Department has concerns with regard to the deployment of resources, space, and staffing. The Department has a robust and disciplined process for allocating and prioritizing resources within the broader context of the OSD as a whole, consistent with its mission. The Department looks forward to working with Congress to ensure these provisions do not constrain the Secretary's discretion to organize and manage the Department and, in these instances, OSD, consistent with its overall mission requirements. This is particularly challenging given the pattern of prescribed organizational structure that the Department has had to address in recent years.

- **U.S. Armed Forces Personnel in Northeast Syria.** The Department strongly opposes section 1223 of the Senate-proposed bill, which would prohibit the Secretary of Defense from reducing the Total Force numbers of members of the United States Armed Forces serving in northeast Syria to fewer than 400 until the Secretary certifies that certain conditions are met. This would prevent the President from reducing force-levels in Syria if he deems it necessary or appropriate to do so based on force protection needs, evolving mission requirements, or other purposes outside the certification conditions and accordingly would directly infringe upon the President's constitutional authority as the Commander in Chief.
- **Establishment of Major Mishap Incident Designation Classification.** The Department opposes section 1045 of the Senate-proposed bill, which would establish a new mishap designation based on cost and number of fatalities. DoD is currently working to develop a new policy to address all "high-interest accidents," a term which is broader in scope than the proposed "major mishap incident" designation. Section 1045 would undermine standardization of legal accident investigation processes, greatly hindering the quality, objectivity, timeliness, and transparency of investigations. Requiring mandatory administrative processing for discharge of misconduct, as outlined in section 1045, could impede the effectiveness of accident investigations by creating a chilling effect on cooperation, unnecessarily blur boundaries between accident investigations and criminal investigations, and result in consequences disproportionate to the actual misconduct.
- **Guantanamo Bay (GTMO) Prohibitions.** The Department opposes sections 1031, 1032, 1033, and 1034 of the Senate-proposed bill, which, respectively, would extend the prohibitions on the use of funds to transfer GTMO detainees to the United States; to construct or modify facilities in the United States to house transferred GTMO detainees; transfer or release GTMO detainees to certain countries; and close or relinquish control of GTMO. These provisions would interfere with the President's ability to determine the appropriate disposition of GTMO detainees and to make important foreign policy and national security determinations regarding whether and under what circumstances to transfer detainees to the custody or effective control of foreign countries.
- **Cyber Threat Tabletop Exercises.** The Department appreciates the Senate Armed Services Committee's interest in ensuring the homeland is prepared for a wide range

of cyber threats. However, the Department opposes section 1604 of the Senate-proposed bill, as drafted, which would require DoD to develop tabletop exercises designed to address a wide-range of threat-relevant cyber-attack scenarios that may affect defense critical infrastructure (DCI) for the purposes of homeland defense and mission assurance. DoD is responsible for the evaluation of the risk to and prioritization of mitigations for sector-specific DCI, in coordination with the Department of Homeland Security's Cybersecurity and Infrastructure Security Agency (CISA) in its capacity as the National Coordinator for the Security and Resilience of Critical Infrastructure, the Intelligence Community, the relevant Sector Risk Management Agencies (SRMA), and other Federal departments and agencies. A requirement for DoD to develop tabletop exercises in support of non-DoD DCI would conflict with the responsibilities of CISA and the SRMAs. Instead, the Department recommends the provision affirm the existing statutory responsibilities of DoD, CISA, and SRMAs in the protection of DCI.

- **Prohibition on Use of Funds to Support Access to National Nuclear Security Administration (NNSA) Facilities.** The Department objects to section 3120 of the Senate-proposed bill, which would prohibit citizens from China, Russia, Iran, and North Korea from visiting any NNSA facility. The provision would severely limit our ability to engage with experts on nonproliferation of biological, chemical, and nuclear weapons. The existing visitor-screening process at the national laboratories and nuclear weapons production facilities are specifically designed to screen for visitor threats and prevent access to protected information.
- **Ambler Mining District in Alaska.** The Department strongly opposes section 1094 of the Senate-proposed bill, which would require the Secretary of the Interior to select an action alternative as the preferred alternative for the Ambler Mining District Industrial Access Road Project (Ambler Road) and issue all rights-of-way necessary for its implementation. This provision directly conflicts with the Bureau of Land Management's April 19, 2024, final environmental analysis, including the evaluation under section 810 of the Alaska National Interest Lands Conservation Act of impacts on subsistence uses, and June 26, 2024, Record of Decision on the Ambler Road project, which adopted the "No action" alternative, denying the Alaska Industrial Development and Export Authority's right-of-way request. The environmental analysis that led to the Record of Decision was the result of an extensive and thorough process informed by consultation with 21 Tribal Nations and 16 Alaska Native Corporations, as well as significant public engagement. The proposed road would span over 210 miles of significant wildlife habitat and pristine waters that are vital for subsistence along the iconic Brooks Range in north central Alaska. This provision would significantly impact resources, including those supporting important subsistence uses, in ways that cannot be adequately mitigated.
- **Sourcing Requirements for Strategic and Sensitive Materials.** The Department opposes section 879 of the Senate-proposed bill, would expand the scope of certain acquisitions provisions to provide a categorical exception for the acquisition of foreign sourced strategic materials and sensitive materials for use outside the United States in

non-contingency operations. The Department recognizes the need for the existing exemption, which is used only in the context of contingency operations, outside the United States, however, it is vital that the provision not be expanded for non-contingency operations so we can continue to support and maintain our strategic readiness by encouraging a robust domestic strategic materials industrial base.

In addition to your support in the annual NDAA, I appreciate the strong support of Congress to fund programs that deliver on the NDS and help the Department defend the Nation, take care of our people, and succeed through teamwork. One of the most important steps Congress can take to help us achieve these goals is pass on-time Defense and Military Construction Appropriations Acts. Our budget is designed to implement the NDS, which requires on-time, full-year appropriations.

Thank you for your continued leadership and support of the Department. I look forward to working with you to advance our Nation's security.

Sincerely,

A handwritten signature in black ink, appearing to read "R. F. O'Rourke". The signature is fluid and cursive, with a prominent initial "R" and a long, sweeping tail.

cc:  
The Honorable Adam Smith  
Ranking Member