

FY2023 NDAA: Selective Service and Draft Registration

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Background

Several provisions in the Senate Armed Services Committee (SASC)-reported National Defense Authorization Act for Fiscal Year 2023 (NDAA; S. 4543) would have amended the Military Selective Service Act (MSSA; [50 U.S.C. §§3801 et seq.](#)). The MSSA provides statutory authority for the federal government to maintain an independent Selective Service Agency responsible for managing the [Selective Service System](#) (SSS) and for delivering qualified civilian men for induction into the U.S. Armed Forces when authorized by the President and Congress. Under the MSSA, all male U.S. citizens and most male noncitizen residents of the United States between the ages of 18 and 26 are required to register with the SSS. Knowingly or willfully failing to register may result in certain federal and state penalties including [fines, imprisonment](#), and ineligibility for [federal employment](#) or [workforce programs](#). Women are not required to register. Congress did not include any of the SASC-proposed provisions in the enacted FY2023 NDAA.

Since the Civil War, conscription (“the draft”) of registered males has been used to meet military personnel needs at various times in U.S. history. The President’s draft induction authority last [expired on July 2, 1973](#), preceding the transition to an all-volunteer force. In 1975, President Gerald Ford temporarily [terminated](#) the [registration requirement](#) and the SSS reduced its functions. In 1980, in response to Cold War threats, President Jimmy Carter [reinstated](#) the male registration requirement, which remains in force. While the registration requirement remains in effect, Congress has not taken any action to reinstate the draft induction authority. If Congress and the President reinstated the draft induction authority, some [deferments and exemptions](#), including religious exemptions, would apply under current law. The SSS manages the registration requirement and mobilization planning. The Consolidated Appropriations Act for FY2023 (P.L. 117-328), enacted on December 29, 2022 includes [\\$31.7 million](#) for the SSS; \$2.5 million more than the FY2022 appropriation of \$29.2 million, and \$0.5 million above the FY2023 budget request of \$29.7 million.

In the FY2017 NDAA (P.L. 114-328), Congress established a National Commission on Military, National, and Public Service (MNAPS Commission) to help consider options for the future of the MSSA. The commission’s [final report](#), released in March 2020, included recommendations for amending the MSSA,

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including requiring women to register for the draft. These recommendations formed the basis of the *Inspire to Serve Act of 2020* (H.R. 6415) introduced in the 116th Congress. Some of the provisions of this act were enacted with the FY2022 NDAA (P.L. 117-81) (see CRS Insight IN11780, *FY2022 NDAA: Selective Service and Draft Registration*, by Kristy N. Kamarck.) **Table 1** provides an overview of proposals for the FY2023 NDAA.

Table 1. FY2023 NDAA Legislative Proposals on Selective Service

House-passed (H.R. 7900)	SASC-reported (S. 4543)	Enacted Legislation (P.L. 117-263)
No similar language	Section 521 would have <ul style="list-style-type: none"> Amended the congressional declaration of the purpose of the SSS; Conveyed the “solemnity of military service” to registrants; Specified representation objectives for local board appointments; Required certain mobilization exercises; and Required women to register. 	Not adopted
No similar language	Section 522 would have required express congressional authorization to induct individuals for training or service.	Not adopted

Source: CRS analysis of legislation on Congress.gov.

Discussion

The House-passed version of the FY2023 NDAA (H.R. 7900) did not include provisions related to the SSS. Section 521 of the SASC-reported bill (S. 4543), titled *Modernization of the Selective Service System*, would have amended the congressional intent of the system. Current text of [50 U.S.C. §3801\(b\)](#) states, “The Congress declares that an adequate armed strength must be achieved and maintained to insure the security of this Nation.” The amended version would have stated,

The Congress declares that the security of the Nation requires that adequate military strength be achieved and maintained by ensuring a requisite number of personnel with the necessary capabilities to meet the diverse mobilization needs of the Department of Defense during a time of war.

This section would also have added language requiring the SSS to convey the “solemnity of military service” to registrants.

Under [50 U.S.C. §3809\(b\)\(3\)](#), the President has the authority to appoint volunteer civilians to [local boards](#). In the event of a draft authorization, these boards would decide draft deferments, postponements, and exemptions based upon claims filed by persons selected for induction. Section 521 would have amended this authority to specify that “to the maximum extent practicable” the boards are proportionally representative of registrants in the jurisdiction on the basis of race, color, religion, sex, or national origin (as specified under [42 U.S.C. §2000e–2\(a\)](#)).

According to [SSS annual reporting](#), the agency conducts periodic readiness exercises of the lottery system for drafting registrants, and mobilization of local boards. Section 521 would also have required the SSS to periodically exercise its mobilization plans and processes, conduct a full interagency exercise every four years, and conduct public awareness campaigns in conjunction with such exercises.

The SASC-reported bill would have required women to register for the draft. Female registration for the draft has been the subject of legislative proposals in prior Congresses and [court decisions](#). Similar [provisions](#) in the House- and Senate-reported versions of the FY2022 NDAA (H.R. 4350, §513; and S. 2792, §511; respectively) would have required women to register, but were not enacted. [The Biden Administration](#) and some [women’s](#) and [men’s](#) advocacy groups support expanding registration requirements. Other [advocacy groups](#) are opposed to requiring women to register for the draft, with [some observers arguing](#) that Congress should reconsider the registration requirement for all Americans.

Section 522 of the SASC-reported bill would have amended 50 U.S.C. §3809 to state, “No person shall be inducted for training and service in the Armed Forces under this title unless Congress first passes and there is enacted a law expressly authorizing such induction into service.” This provision could have removed some ambiguity about Congress’s role in authorizing the draft. Current law ([50 U.S.C. §3803\(a\)](#)) authorizes the President “from time to time, whether or not a state of war exists, to select and induct into the Armed Forces of the United States for training and service,” but also states under [50 U.S.C. §3815](#) that, “no person shall be inducted for training and service in the Armed Forces after July 1, 1973.”

The [House and Senate agreement](#) did not adopt any provisions related to the MSSA, meaning that proposed changes were not enacted in the FY2023 NDAA.

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