

# Issue Brief

MARCH 31, 2021  
BY ANDREW LAUTZ

## Congress Should Do Away With DoD Unfunded Priorities Lists, A Multibillion-Dollar Wish List Boondoggle

Congress has spent trillions of deficit-financed dollars on COVID-19 relief legislation over the past year, adding to an existing debt load that now [hovers around \\$28 trillion](#). The nonpartisan Government Accountability Office (GAO) recently [warned](#), citing the Congressional Budget Office (CBO) and other experts, that rising debt and deficits will threaten America's economic and fiscal stability in the long run, if not sooner.

While GAO correctly points out that mandatory spending -- the bulk of which is federal spending on the Social Security and Medicare programs -- along with net interest on the debt are key drivers of U.S. deficits and debt in the decades ahead, Congress can make meaningful dents in annual deficits by tackling wasteful spending in the discretionary budget it considers every fiscal year.

### Key Facts:



At a time when lawmakers should be trimming spending, legal requirements for the military's "unfunded priorities" lists add billions of dollars to the taxpayer's tab each year.



Congress should repeal these requirements, building on efforts from Rep. Pramila Jayapal (D-WA) that have yet to succeed but are ripe for bipartisan support.



Secretary Austin can also set an example by trimming these DoD 'wish lists,' and Congress can be more transparent about when they fulfill unfunded requests.

NTU has long argued that cutting the Department of Defense (DoD) budget should be on the table, notwithstanding widespread Republican and Democratic support in Congress for large and growing DoD budgets.

CBO [projects](#) that discretionary defense budget authority will total \$8.479 trillion in the 10-year period from fiscal year (FY) 2022 through FY 2031, an average of just under \$850 billion per year. This total is six percent higher than non-defense discretionary budget authority over the same period, a total of \$7.988 trillion from FYs 2022-2031 or an average of just under \$800 billion per year.

Over the years NTU has [identified numerous opportunities](#) to responsibly reduce the defense budget. Collectively, these deficit reduction options total hundreds of billions of dollars over the aforementioned 10-year window.

In this report we are adding a new DoD boondoggle to our list of budget reduction options: annual “unfunded priorities” lists that Congress requires certain components of the Department to furnish lawmakers every year. These lists, which are also sometimes called “unfunded requirements,” total billions of dollars every year. Though Congress is not required to fulfill these DoD wish lists, they often stuff part of DoD’s “unfunded” stocking every year, potentially adding billions of dollars of costs to the taxpayer’s ledger.

What follows is a brief history of unfunded priorities lists, a *floor* estimate for how unfunded priorities lists have recently impacted the DoD budget, and a pathway for Congress to repeal or reform these multibillion-dollar wish list boondoggles.

## **A Brief History of Unfunded Priorities Lists**

Unfunded priorities lists *requirements* from Congress are relatively new, but unfortunately the lists themselves have been [around since the 1990s](#). Mark Thompson, formerly of *TIME* and now at the Project on Government Oversight (POGO), has been chronicling the growth and demise and return of unfunded priorities lists for decades. (For more from Thompson, see [here](#), [here](#), and [here](#).)

As Thompson put it in 2009:

Defense Secretary Robert Gates is determined to crack down on what are known inside the Pentagon as “unfunded priority lists” and on Capitol Hill — to make them more palatable to skeptical lawmakers — as unfunded “requirements” or “mandates.” Taxpayers who follow such arcane budget shenanigans call them “wish lists,” and for good reason — they’re basically lists of goodies that the Pentagon’s civilian leaders felt weren’t needed. Not only are they a waste of tens of billions of dollars, but funding such weapons outside normal channels leads to an unbalanced military force, jeopardizing the never-ending quest for the military services to fight wars jointly instead of engaging in internal budgetary guerrilla warfare with one another. And in going after them so directly, Gates is continuing his campaign to bring fundamental change to the Pentagon that will last beyond his tenure.

Thompson adds that, thanks to Secretary Gates’ push to limit unfunded priorities lists, they shrunk in size by about 90 percent from 2008 to 2009. In 2012, the Joint Chiefs of the Marine Corps, Navy, and Air Force did [not even submit](#) unfunded priorities lists, to the chagrin of Congress. As *CQ* [explained at the time](#):

The Republican chairman of the House Armed Services Committee, Howard P. “Buck” McKeon of California, says the lists provide an important tool for Congress to assess the adverse impact of budget cuts and where additional funds might help the military. Increasing spending on a given program does not necessarily mean another one needs to be cut, he says, because the House-passed budget resolution (H Con Res 112) includes more funds for defense in fiscal 2013 than the president sought.

...McKeon and other defense hawks in Congress are losing an easy talking point about how real military needs are getting short budgetary shrift.

Unfortunately, without a Defense Secretary who championed elimination of the lists and without a Congress interested in true budget discipline for the Department of Defense, the unfunded priorities lists eventually made a return -- and Congress started requiring them *by law*.

The FY 2017 National Defense Authorization Act (NDAA), passed in December 2016, [required](#) the chiefs of staff of the Army, Navy, and Air Force (along with the Marine Corps Commandant) to submit to Congress an annual “report on the unfunded priorities of the armed force or forces or combatant command under the jurisdiction or command of such office.” By “unfunded” priority, Congress meant an item “not funded in the President’s budget,” “necessary to fulfill a requirement of an operational or contingency plan,” and that “would have been recommended if additional resources had been available” (read: if DoD didn’t have to operate under any sort of budgetary restraint). Before this statutory requirement, Congress had once included a [Sense of Congress](#) on unfunded priorities lists in the FY 2013 NDAA -- possibly in response to the Gates effort to limit them.

Successive NDAAs, the nation’s annual defense policy bill, have added to the roster of defense budget components required to provide their wish lists to Congress each year:

- The FY 2018 NDAA [added](#) the National Nuclear Security Administration, under the purview of the Department of Energy but part of the annual defense budget;
- The FY 2019 NDAA [added](#) the Missile Defense Agency;
- The Coast Guard Authorization Act of 2018 [required](#) the Coast Guard to submit unfunded priorities lists;
- The FY 2020 NDAA [required](#) the Under Secretary of Defense for Acquisition and Sustainment to submit an annual report on “unfunded priorities to address gaps or vulnerabilities in the national technology and industrial base”; and
- The FY 2021 NDAA [added](#) the Chief of Space Operations of the Space Force (Sec. 924(b) (10)) and the Chief of the National Guard Bureau (Sec. 1006) to the list of officials who need to submit unfunded priorities lists; Section 1005(b) of the law requires DoD to also submit a report on unfunded priorities related to audit readiness and remediation.

The lists themselves total in the billions of dollars each year, and a rough accounting of how Congress fulfills unfunded priorities lists indicates that, at minimum, they are costing taxpayers billions of dollars per year.

## **Estimating the Recent Impact of Unfunded Priorities Lists**

Tallying up the total unfunded priorities lists from year to year can be a bit of a chore, but niche media outlets covering DoD have managed to do so in recent years.

According to Bloomberg Government ([paywall](#)), unfunded requests totaled at least \$10 billion in FY 2020. According to [Inside Defense](#), unfunded requests totaled \$18 billion in FY 2021, with the following breakdown by service or command:

- \$7.2 billion for Army requests;
- \$5.4 billion for Navy requests;
- \$3.2 billion for Air Force requests;
- \$1.1 billion for Missile Defense Agency requests;
- \$1 billion for Space Force requests;
- \$770 million for Marine Corps requests;
- \$370 million for U.S. Central Command requests;
- \$180 million for U.S. Northern Command requests; and
- \$106 million for U.S. Cyber Command requests.

Of course, filling out and submitting the wish lists are just two steps in the process. Although the lists are required by law, Congress is not obligated to fulfill these requests. Unfortunately, they often do.

A rudimentary analysis of the conference reports for the last three NDAs -- FY 2021, FY 2020, and FY 2019 -- reveals **at least \$7.827 billion** in appropriations from the unfunded requirements lists. This is almost certainly a floor, and not a ceiling, for unfunded requests fulfilled by Congress in each of these years, because not every unfunded request is noted as such in the NDAA conference report:

- For example, the [single-largest request](#) on the Navy's FY 2021 unfunded priorities list, a second Virginia-class submarine, is [funded at \\$2.296 billion](#) in the FY 2021 NDAA. It is not listed as an unfunded priority or request, but merely under the line item "Restore second Virginia-class SSN."
- The same goes for the Air Force's FY 2021 [request](#) for 12 more F-35 Joint Strike Fighters. Congress [fulfills](#) the Air Force's wish at a cost of \$976.667 million, under the line item "Additional 12 F-35As."

While many fulfilled unfunded priorities are identified as such in NDAA conference reports, many large line items -- like the submarine and F-35s noted above -- are not. That makes determining a ceiling for the unfunded priorities boondoggle a tedious task for anyone inside or outside of government. In this paper, we make an attempt to estimate a floor for the current fiscal year and the prior two fiscal years, which readers can find in the appendix. The FY 2018 NDAA conference report [lists literally hundreds of unfunded requirements](#) fulfilled, and tallying them all is beyond the scope of this paper.

## **A Pathway to Repeal or Reform**

Paring back unfunded priorities lists will require active work by both lawmakers and military leaders. While repealing the statutory requirements for unfunded priorities lists is a first step, the use of unfunded priorities lists during the Bush and Obama administrations, despite the lack of a statutory requirement for such lists, demonstrates that the expensive wish lists may rear their ugly head even if Congress stops requiring them. While Congress does, indeed, control the nation's purse strings, and should be able to overrule the President's preferences for a DoD budget, the unfunded priorities lists in practice serves to *add* low-priority wish-list spending (see the F-35 example), rather than forcing a

difficult and necessary conversation about trade-offs in the military's budget. What follows is a road map for how Congress, the President, OMB, and DoD can stop this wasteful practice.

- **Congress should repeal unfunded priorities list requirements:** During the debate over the FY 2021 NDAA, Rep. Pramila Jayapal (D-WA) offered an amendment to the bill that would have repealed unfunded priorities list requirements for the Armed Forces (Army, Navy, Air Force, Marine Corps, construction projects, and now Space Force and the National Guard; 10 U.S.C. Section 222a) and the Missile Defense Agency (10 U.S.C. Section 222b). Rep. Jayapal's amendment was defeated 173-241. We hope lawmakers make a new bipartisan effort to repeal unfunded priorities list requirements in the FY 2022 NDAA. Lawmakers could go further by repealing unfunded priorities list requirements for the national technology and industrial base (10 U.S.C. Section 2504a), the Coast Guard (14 U.S.C. 5108), and the National Nuclear Security Administration (50 U.S.C. 2756).
- **Secretary Austin should make cutting back on unfunded priorities lists a public-facing priority:** Much like former Secretary Gates did in 2009, Defense Secretary Lloyd Austin can strike a new tone for a new administration on unfunded priorities lists by pressing the services to scale back their wish lists significantly. Secretary Gates's leadership led to wish lists around 90 percent smaller from one year to the next. A similar push from Secretary Austin, including requiring DoD components to brief him about their submissions before providing them to Congress, could make the FY 2022 wish lists less than \$2 billion, rather than \$18 billion. DoD can take this step regardless of whether Congress repeals unfunded priorities requirements in this year's NDAA.
- **OMB, DoD, and/or Congress could require unfunded priorities lists to include more information about policy alternatives and trade-offs:** One of GAO's 2019 critiques of the Coast Guard's unfunded priorities lists was that it did not "clearly articulate prioritization decisions, including information about trade-offs among competing project alternatives, as well as the impacts on missions conducted from shore facilities in disrepair that had not been prioritized in previous years." The Coast Guard told GAO that "such information is not included in the ... Unfunded Priorities List because it is not statutorily required." Current statutory requirements for unfunded priorities lists only require a "summary description of each priority," "objectives achieved if the priority is funded," "additional amount of funds recommended," and "account information for each priority." The law also requires items to be listed in "an overall order of urgency of priority," but does not require the services to offer low-cost or no-cost trade-offs for a given unfunded priority. Congress could step in and require this for all unfunded priorities lists -- only if they choose not to repeal these lists, though, and we strongly believe that they should. In the interim, Secretary Austin or officials at the Office of Management and Budget (OMB) could insist on this more robust analysis of trade-offs in FY 2022 unfunded priorities lists, through formal guidance and/or informal collaboration with the service branches.
- **Congress could require the components submitting unfunded priorities lists to identify budget savings that equal or exceed their unfunded requests:** Much like the Biden administration is now reviewing "fighter needs" that may impact the number of F-35 purchases the administration proposes to make in its FY 2022 budget request, Congress could ask the services to propose budget savings if lawmakers are to keep the unfunded priorities list requirements in place. In conjunction with proposing unfunded priorities, the services could be required to furnish Congress with information on savings opportunities that equal or exceed the total dollar amount of unfunded requests a given service is making. This could have the added benefit of reducing the total value of unfunded requests, given services may be loath to suggest budget cuts that match up to their unfunded requests.

- **The Armed Services Committees could standardize how they report the fulfillment of unfunded priorities in NDAA conference reports:** Part of the difficulty in assessing how Congress does or does not fulfill unfunded priorities lists is that there seems to be little consistency in how the Armed Services Committees describe these line items in NDAA conference reports (note the F-35 and Virginia-class submarine examples mentioned above). The Committees could commit, formally or informally, to a more consistent practice in its conference reports, such as denoting *all* unfunded priorities fulfillments with the acronym “UFR” (rather than just some, as is current practice). If the Committees wanted to provide even more transparency, it could add a new section to its conference reports each year that lists all unclassified unfunded priorities requested by defense budget components for that fiscal year, along with information on which requests were fulfilled at what funding levels, which requests were partially fulfilled, and which requests were not fulfilled. This would not be an unusual inclusion, given the conference report already details which provisions of the competing House and Senate versions of the NDAA *were* adopted by the conference and which *were not* adopted by the conference, along with an explanation of why a provision was included or excluded.

## Counterarguments

It is worth addressing a few counterarguments that supporters of unfunded priorities (and/or large and growing DoD budgets) may raise against the arguments of this paper and the reform options outlined above. Skeptics may argue that unfunded priorities lists had a limited budgetary impact during the Budget Control Act (BCA) era (FYs 2012-2021) because there were statutory caps on defense spending. There are two counterpoints to this argument: the first is that unfunded priorities lists *did* matter as long as Congress had an easy-to-abuse relief valve in the Overseas Contingency Operations (OCO) account, and data show that relief valve (for base budget items and enduring costs) totaled [at least \\$164 billion over seven years](#). The second counterpoint is that Congress was never required to spend up to the BCA caps for defense, and the unfunded priorities lists likely made it easy for lawmakers to do so.

Skeptics may further argue that the *end* of the BCA era obviates the need to repeal unfunded priorities lists requirements. Since there are no spending caps, the argument could go, there is no longer a need for DoD components to submit “unfunded” lists to Congress -- everything that needs to be funded will be funded.

A clear and compelling counterpoint to this argument is that unfunded priorities lists, as long as they are required by Congress, could offer the President and DoD the opportunity to transfer any political pushback for growing defense budgets from the executive branch to the legislative branch. In other words, the President and the Secretary of Defense could offer a marginally more responsible DoD budget than in prior years while giving their ‘wink and nod’ approval for higher spending through unfunded priorities lists. Another counterpoint is that unfunded priorities lists existed *before* the era of budget caps. A third counterpoint is that DoD is the only federal agency that currently even has the *opportunity* to offer unfunded priorities. Opening all agencies to reporting their unfunded priorities would be inherently wasteful, so the path of least resistance and the most fairness is to simply end this practice at DoD.

## Conclusion

While unfunded priorities lists make up a relatively small portion of the DoD budget, they still tally up to billions of dollars in wasteful ‘wish lists’ that make lawmakers less willing and able to right-size the

DoD budget and meet the debt and deficit challenges facing our country. Congress should repeal the requirements surrounding these lists in FY 2022 -- or otherwise significantly reform them -- and DoD and OMB should step up in encouraging the service branches (and other defense budget components currently required to furnish lists) to downsize their requests. Doing so will serve taxpayers well in the short and long runs.

***About the Author***

*Andrew Lautz is the Director of Federal Policy with National Taxpayers Union.*



*2021 National Taxpayers Union  
122 C Street NW, Suite 650, Washington, DC  
20001  
[ntu@ntu.org](mailto:ntu@ntu.org)*

## Appendix: Unfunded Priorities Fulfilled in FYs 2019-2021

| Fiscal Year                            | Unfunded Priority  | Service Branch                  | Cost          | PDF Page Listed on NDAA Conference Report |
|--|--|---------------------------------|---------------|---|
| 2019<br>(total:<br>\$1.068<br>billion) | Multi Sensor Airborne Reconnaissance   | Army                            | \$14,000,000  | 733                                       |
|  | Bunker Defeat Munitions  | Army                            | \$25,000,000  | 736                                       |
|  | Additional HYDRA Rockets   | Army                            | \$30,000,000  | 736                                       |
|  | Adaptive RADAR Countermeasures   | Navy                            | \$25,000,000  | 740                                       |
|  | Additional Air Intercept Missile (AIM) 9-X Missiles ( <a href="#">short-range missiles</a> ) | Navy                            | \$45,000,000  | 741                                       |
|  | LRASM  | Navy                            | \$30,000,000  | 741                                       |
|  | Mark 48 (MK-48) Torpedo  | Navy                            | \$11,000,000  | 741                                       |
|  | Sonobuoys  | Navy                            | \$38,300,000  | 745                                       |
|  | Test and evaluation of the M999 155mm Anti-Personnel Improved Conventional Munition          | Army                            | \$12,000,000  | 761                                       |
|  | Emerging Technology Initiatives  | Army                            | \$25,400,000  | 763                                       |
|  | EA-18G ( <a href="#">variant of F/A-18F Super Hornet</a> )                                   | Navy                            | \$31,600,000  | 768                                       |
|  | Engine enhancements  | Navy                            | \$15,000,000  | 770                                       |
|  | Four construction projects   | Army Military Construction      | \$94,100,000  | 1127                                      |
|  | 13 construction projects   | Navy Military Construction      | \$317,800,000 | 1129                                      |
|  | Nine construction projects   | Air Force Military Construction | \$118,400,000 | 1131                                      |
| Six construction projects              | Defense Agencies Military Construction   | \$43,400,000                    | 1133          |   |
| 12 construction projects               | Guard and Reserve Forces Facilities  | \$191,800,000                   | 1137          |   |
| 2020<br>(total:<br>\$2.482<br>billion) | Accelerating Stryker Medium Caliber Weapon System  | Army                            | \$249,200,000 | 2116                                      |
|  | P-8A Poseidon ( <a href="#">multi-mission maritime patrol aircraft</a> )                     | Navy                            | \$541,200,000 | 2120                                      |
|  | E-2D Adv Hawkeye (Navy <a href="#">battle management command and control</a> )               | Navy                            | \$173,000,000 | 2120                                      |
|  | KMAX Large Unmanned Logistics System ( <a href="#">piloted cargo lift helicopter</a> )       | Marine Corps                    | \$18,500,000  | 2144                                      |
|  | Classified   | Missile Defense Agency          | \$135,000,000 | 2153                                      |
|  | Technology maturation  | Department of Energy            | \$3,600,000   | 2189                                      |
|  | Three construction projects  | Army Military Construction      | \$79,500,000  | 3183                                      |



|  |  |  |                 |      |
|--|--|--|-----------------|------|
|  | 13 construction projects   | Navy Military Construction             | \$616,400,000   | 3185 |
|  | 10 construction projects   | Air Force Military Construction        | \$230,400,000   | 3188 |
|  | 13 construction projects   | Defense Agencies Military Construction | \$199,400,000   | 3192 |
|  | Six construction projects  | Guard and Reserve Forces Facilities    | \$236,800,000   | 3195 |
| 2021<br>(total:<br>\$4.277<br>billion) | Base Support Comms - AFRICOM Force Protection Upgrades                         | Army                                   | \$1,000,000     | 2704 |
|  | Indirect Fire Protection Family of Systems - AFRICOM Force Protection Upgrades | Army                                   | \$4,000,000     | 2704 |
|  | OPA3 (Physical Security Systems) - AFRICOM Force Protection Upgrades           | Army                                   | \$12,000,000    | 2706 |
|  | Second Virginia-class SSN  | Navy                                   | \$2,296,000,000 | 2709 |
|  | 12 Additional F-35A Joint Strike Fighter aircraft                              | Air Force                              | \$976,700,000   | 2713 |
|  | Eight construction projects  | Army Military Construction             | \$289,200,000   | 4189 |
|  | 10 construction projects   | Navy Military Construction             | \$286,900,000   | 4192 |
|  | Seven construction projects  | Air Force Military Construction        | \$136,300,000   | 4194 |
|  | 10 construction projects   | Defense Agencies Military Construction | \$155,200,000   | 4197 |
|  | Nine construction projects   | Guard and Reserve Forces Facilities    | \$119,600,000   | 4201 |
| <b>Total FYs 2019-2021</b>             | <b>\$7.827 billion in unfunded priorities fulfilled</b>                        |  |                 |      |