

Congress of the United States
Washington, DC 20515

January 7, 2021

The Honorable Nancy Pelosi
Speaker of the House of Representatives
Washington, D.C. 20515

Speaker Pelosi,

General Lloyd Austin requires a waiver from Congress to be confirmed as the next Secretary of Defense and we urge you allow for full deliberation for the waiver processes. Ahead of the confirmation, we recently heard reports that the waiver process for General Austin may be rushed to the House floor. An issue of such historical significance cannot be rushed. As members of the House Armed Services Committee, we urge the waiver process to receive full time for deliberation, including committee hearings, a committee vote, and a recorded vote on the House floor.

A waiver for a military leader to serve as the Secretary of Defense has only occurred twice and deserves significant discussion. As stated in Section 113(a) of Title 10, United States Code, “[a] person may not be appointed as Secretary of Defense within seven years after relief from active duty as a commissioned officer of a regular component of an armed force.” General Austin retired from the Army four years ago and an exception to existing law would be required in order for him to be confirmed. Most recently, General Mattis received the waiver in 2017; it was also issued in 1950 as tensions increased during the Cold War.

Waivers for the Secretary of Defense should be issued with great caution, as the U.S. constitution calls for civilian oversight of the military. In 2018, the bipartisan National Defense Strategy Commission, sensing an imbalance in civil-military relationship recommended “that Congress ensure thorough oversight of the Department’s civil-military relations” stating that “the issue here is not that the existing Title 10 responsibilities of the Secretary [of Defense] and his civilian advisers are inadequate, but that they have not been used effectively, and . . . responsibility on key strategic and policy issues has increasingly migrated to the military.” The Commission further stated that Congress “should hold the Secretary accountable for the Department meeting the spirit and the letter of . . . Title 10 requirements. In doing so, Congress will help uphold the authority of civilian leaders and reverse the unhealthy trend in which decision-making is drifting increasingly toward the military on issues of national importance.” As Chairman Smith stated during Secretary Mattis’ confirmation process, “We need to have a conversation about why the civilian control of the military is so important, and both the House and the Senate need to do their due diligence, asking Gen. Mattis those questions — and have that debate, not just to rubber-stamp it.”

Given the important and historic nature of the waiver, we urge you to allocate enough time for deliberation on the House Armed Services Committee and the House floor. Civilian oversight of our armed forces is too important to expedite. We look forward to continued discussion on this topic and a recorded vote for General Austin’s waiver.

Sincerely,



Jim Banks
Member of Congress



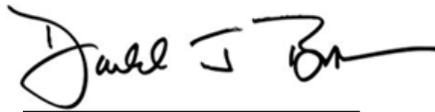
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