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Why is NDAA Filled With “Should” Instead of “Shall”?

The short “pandemic act” inside the long Defense Act of 2023—says the president shall do this and the president shall do that. Shall is a mandate. But halfway through the pandemic act, the language changes from “shall” to “should.” Using the word should in a law is just a suggestion. It’s not a legal mandate.

The “should” language extends to the new international fund for pandemic funding. The governance section of the fund is filled with should this and should that language. Thus, Congress knows it can’t control this fund or the tax dollars the president gives to it. Interestingly, the word “should” is used 224 times in this Defense Act. Should is meaningless. It’s a hope and a prayer. So, what’s it doing in a law?

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