



Eric Bunn Sr.
National Secretary-Treasurer

Dr. Everett B. Kelley
National President

Jeremy A. Lannan
NVP for Women & Fair Practices

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The Honorable Jim McGovern
Chairman
House Committee on Rules
H-312 The Capitol
Washington, D.C. 20515

The Honorable Tom Cole
Ranking Member
House Committee on Rules
H-312 The Capitol
Washington, D.C. 20515

Dear Chairman McGovern, Ranking Member Tom Cole, and Members of the Committee:

On behalf of the American Federation of Government Employees, AFL-CIO (AFGE), which represents more than 700,000 federal and District of Columbia government employees in more than 70 federal agencies, I write to share our position on the following amendment H.R. 4350, the “National Defense Authorization Act for Fiscal Year 2022” as you decide which amendments to make in order related to the hardworking federal employees who provide vital services to the American public.

This is a follow-on to our letter dated September 15, 2021, to provide additional details on our strong opposition to ruling in order **Amendment Number 665** proposed by **Representative Gonzales (R-TX)** that would establish the National Digital Reserve Corps, a program within the General Services Administration (GSA) that would allow private sector employees to work for the federal government for 30 days per calendar year to take on short term digital, cybersecurity, and AI projects. Reservists would report to GSA, and GSA would then detail them to executive agencies.

We have been in contact with Representative Panetta’s office, and that office has agreed with some key substantive revisions to their **Amendment Number 295** proposed by **Representative Panetta (D-CA)** which establishes a Civilian a Cyber Security Reserve pilot program at Cyber Command. As a result of their having made crucial substantive revisions to their amendment, we withdraw our objections to their amendment and endorse it once their revisions are made. In the discussion below we will compare and contrast the two Amendments and show that the Panetta Amendment Number 295 is substantively superior.

- The Amendment 665 proposed by Representative Gonzales (R-TX) is worse than the Amendment number 295 proposed by Representative Panetta (D-CA), a pilot program, because Amendment 665 is institutionalized as a permanent government-wide program run out of GSA. Amendment 665 has no limitations in scope as if it were a mature, well-run program. In contrast, the Panetta Amendment is a pilot program with limited numbers so that lessons learned from the pilot can help inform its next iteration. That is extremely important if one is concerned about not wasting taxpayer revenues.

- Amendment 665 mis-characterizes its appointments as “competitive,” even though there is no meaningful competitive process involved, and constitutes another chipping away of the merit-based, apolitical civil service. Amendment 295 expressly requires Office of Personnel Management approval for any deviations from title 5 and the merit system.
- Amendment 665 provides for confidential disclosure for its participants as special government employees. The absence of public disclosure using the Office of Government Ethics (OGE) Form 278 would have the practical effect of preventing the public or the press to shed sunlight on conflicts of interests on the part of participants. In contrast, Rep. Panetta’s office has agreed to make revisions to their Amendment 295 to provide for public disclosure using OGE Form 278.
- In Amendment 665, the assignments would likely be of more benefit to the private sector employers of these faux “reservists” and to the reservists themselves than to the government agencies. This is because of the short duration of the assignments that would serve to provide inside knowledge of government programs that would then be used to gain competitive advantages for their employer in contracting. There is almost no real benefit to the agency.
- This problem exists for two reasons:
 - The “mobilizations” are not long enough to be of practical use to the Agency and are more akin to training of the faux “reservist” to be ready for longer term engagements of greater use that unlikely to occur. To be useful and not disruptive to the permanent government workforce that will have the added work of figuring out what work to give to these “reservists” who will have a learning curve to deal with when transitioning to their assignments, this program would have to provide for longer term deployments similar to military reservists. This is not the case with the revised Amendment 295 as representative Panetta’s office has agreed to extending the time served to up to two years, making it more like a real Reserve program. That is sufficient time to ensure meaningful work is performed of benefit to Cyber Command and not just a training program that benefits the reservist.
 - The GSA is charged in amendment 665 with the mission of continuously ensuring a steady level of work (i.e., training assignments) for these reservists with a lesser role of Agency heads in defining the actual requirement based on bona fide workload requirements. Creating jobs for people without a workload analysis is wasteful and the Agencies themselves are best equipped to do that workload analysis based on their familiarity with their missions. Further, the workload in those missions will change. To presuppose as a matter of statutory mandate that there will be a steady and growing workload for Digital workforces absent detailed analysis from Agencies themselves is a recipe for fraud, waste and abuse. Within the Department of Defense, the Military Departments and Joints Chief of Staff and Secretary of Defense have rigorous processes in place for determining the end strength requirements for the military Reserve Components. There is little acknowledgement that the demand for this civilian digital reserve workforce would require similar levels of validation of the demand. This criticism does not at all apply to amendment 295 because it properly places defining and scoping the demand with the Department of Defense and Cyber Command.

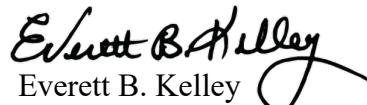
Accordingly, amendment 665 would create a costly boondoggle and be no more than an opportunity for private interests to obtain inside information from the government and train its workforce through access to governmental programs without having to compete for a contract to work on those programs.

That criticism does not apply to the revised Panetta amendment 295 because of the extended deployment periods of up to two years, their use of public disclosure OGE Form 278, the status of the deployed reservists as part time permanent civil servants when deployed, the centrality of Cyber Command in defining the requirement, and the limited scope as a pilot with well-defined parameters for assessing the pilot's success and a sunset after four years.

Before there is a rush to permanently mandate such a wasteful program that weakens an apolitical civil service, AFGE urges you to support the far better Panetta Amendment where lessons can be learned, particularly when the pilot program includes important safeguards to ensure value-added meaningful deployments and public disclosure using OGE Form 278 to ensure there is sunshine on any conflicts of interest.

For questions or more information please contact John Anderson at john.anderson@afge.org or 703-943-9438.

Sincerely,


Everett B. Kelley
National President