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July 7, 2022

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 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 amendments to H.R. 7900, the “National Defense Authorization Act for Fiscal Year 2023” as you decide which amendments to make in order related to the hardworking federal employees who provide vital services to the American public.

Please make in order Amendment Number 5 proposed by Rep. Norton (D-D.C.) and Rep. Brown (D-MD) to give the Mayor of the District of Columbia the same authority over the National Guard (NG) that the governors of states and territories have. Given what happened during the January 6th insurrection, every patriotic American who cares about the rule of law should be supportive of providing the Mayor this authority.

Please make in order Amendment Number 11 proposed by Rep. Brownley (D-CA) that would allow FAA Air Traffic Controllers to work at Contract Tower facilities without losing federal retirement benefits.

Please make in order Amendment Number 23 proposed by Rep. Cicilline (D-RI) that would require the Department of Veterans Affairs to evaluate productivity expectations for readjustment counselors of Vet Centers, including by gaining feedback from counselors that must be audited annually for five years by the Government Accountability Office. This amendment would also require the VA to develop and implement a staffing model for Vet Centers, standardize position description responsibilities, and award grants to address food insecurity among veterans and family members of veterans who receive services through Vet Centers or other VA facilities.

Please make in order Amendment Number 28 proposed by Rep. Kilmer (D-WA) that would remove the 180 day waiting period for hiring retired members of Armed Forces into military health system positions, as this provision is not effectuated by using direct hire authority but rather through regular open competitive hiring processes.

Please make in order Amendment Number 113 proposed by Rep. Correa (D-CA) that would require the Department of Veterans’ Affairs (VA) to submit an annual report on women’s’ veterans’ access to gender specific services under arrangements entered into by the VA with non-VA medical providers for the provision of hospital care or medical services.



Please make in order Amendment Number 166 proposed by Rep. Lee (D-CA) and Rep. Pocan (D-WI) that would reduce the FY2023 DoD topline budget by \$100 billion, excluding military personnel, federal employees and the defense health program, citing efficiencies identified in a 2021 Congressional Budget Office study. The Department of Defense still has not addressed longstanding statutory requirements for one quarter of its top line related to services contract funding transparency and requirements validation in its budget submissions, with 90 percent of DoD's contracts supporting headquarters likely being funded in non-headquarters programs, resulting in the GAO including contract services management in DoD on its high risk list. Additionally, there are too many sole source procurements similar to the Transdigm scandal where faux "commercial" transactions are used to price gouge the military. Until these issues are addressed, the idea that increased defense spending is actually contributing to national security is misleading.

Please make in order Amendment Number 220 proposed by Rep. Connolly (D-VA) and Rep. Fitzpatrick (R-PA) that would prevent any position in the competitive service from being reclassified to an excepted service schedule that was created after September 30, 2020 and limits federal employee reclassifications to the five excepted service schedules in use prior to fiscal year 2021.

Please make in order Amendment Number 237 proposed by Rep. Norcross (D-NJ) that would allow the DoD to refer a dispute between a labor organization and a contractor to the Federal Mediation and Conciliation Service for assistance in creating a first contract. This amendment additionally allows contractor employees to form a union by collecting authorization cards from a majority of employees in a business unit who perform work funded by a government contract.

Please make in order Amendment Number 285 proposed by Rep. Neguse (D-CO) that would include the minimum pay, annual adjustments, and compensation comparable to non-federal firefighters, and hazardous duty provisions from H.R. 5631, The Tim Hart Wildland Firefighter Classification and Pay Parity Act. This further directs the Office of Personnel Management to ensure that any pay, benefits and bonuses provided to structural firefighters (0081 series) are comparable with pay, benefits and bonuses provided for federal wildland firefighters.

Please make in order Amendment Number 315 proposed by Rep. McGovern (D-MA), Rep. McKinley (R-WV), Rep. Pascrell (D-NJ), Rep. Fitzpatrick (R-PA) and Rep. Kirkpatrick (D-AZ) that eliminates the VA Asset and Infrastructure Review Commission. Authorized in the 2018 VA MISSION Act, the Commission was tasked with approving a series of misguided recommendations to close or downsize almost one-third of VA medical centers, with no assurance that replacement facilities would ever be built. The recommendations were developed based on discredited, pre-pandemic data on the availability of private care. The law limited Congressional authority to modify these ill-conceived recommendations and would have a catastrophic impact on veteran health care, particularly in rural and underserved communities. This amendment eliminates the Commission and helps to reestablish Congressional responsibility for overseeing and funding VA's essential infrastructure.

Please make in order Amendment Number 330 proposed by Rep. Carbajal (D-CA) that would add the Federal Firefighters Fairness Act (H.R. 2499) to the bill, which would create the presumption that federal firefighters who become disabled by certain serious diseases contracted the illness on the job.

Please make in order Amendment Number 345 proposed by Rep. DeFazio (D-OR) that updates the National Emergencies Act to protect against presidential abuse of emergency powers. This amendment strengthens the Congressional role in and oversight of emergency declarations and designations.

Please make in order Amendment Number 347 proposed by Rep. Jackson-Lee (D-TX) that would direct the Secretary of Defense to report to Congress in not less than 180 days the results of its evaluation as to the extent, if any, of the threat to national security posed by domestic terrorist groups and organizations motivated by a belief system of white supremacy, such as the Proud Boys and Boogaloo.

Please make in order Amendment Number 350 proposed by Rep. Jackson Lee (D-TX) that would direct the Secretary of Defense to establish a task force 180 days after enactment that will report to the House and Senate Armed Services Committees and make publicly available an annual report that explains the progress made over the history of the Department of Defense and its predecessor departments (Department of War) and experiences in integrating African Americans into the branches of the armed services and the civilian staffing of Pentagon offices and agencies.

Please make in order Amendment Number 370 proposed by Rep. Gottheimer (D-NJ) that would require each military service to report on all substantiated administrative investigations or instances of antisemitism within the Equal Opportunity Program.

Please make in order Amendment Number 374 proposed by Rep. Gottheimer (D-NJ) that would require the Under Secretary of Defense for Personnel and Readiness to prepare an annual report to Congress about analysis of the nationwide costs of living for members of the Department of Defense.

Please make in order Amendment Number 383 proposed by Rep. Khanna (D-CA) that would require the Department of Defense to enter into an agreement with a federally funded research and development center to conduct an independent report on Department of Defense practices regarding distinguishing between combatants and civilians in United States military operations. This distinction is relevant to total force management “military essentiality” determinations in policies issued by the USD (P&R).

Please make in order Amendment Number 388 proposed by Rep. Lynch (D-MA) reauthorizing the Commission on Wartime Contracting to conduct oversight of U.S. contracting and reconstruction efforts in Afghanistan and other areas of contingency operations. Lessons learned from the prior Commission included the creation of the “critical” and “closely associated with inherently governmental” categories and recognition of the need to insource military and civilian employee capabilities involving those categories.

Please make in order Amendment Number 400 proposed by Rep. Jayapal (D-WA) that would repeal the requirement for the Defense Department to submit unfunded priority lists to Congress.

Please make in order Amendment Number 449 proposed by Rep. Kahele (D-HI), Rep. Gallego (D-AZ), Rep. Kildee (D-MI) and Rep. Khanna (D-CA) that would rescind twenty Medals of Honor awarded to the members of the United States Army 7th Cavalry for killing hundreds of unarmed Lakota women, children and men on the Pine Ridge Indian Reservation, which later became known as the Wounded Knee Massacre.

Please make in order Amendment Number 484 proposed by Rep. Malinowski (D-NJ) and Rep. Garbarino (R-NY) that would require the Cybersecurity and Infrastructure Security Agency (CISA) to maintain a publicly available clearinghouse of resources concerning the cybersecurity of commercial satellite systems. This also requires GAO to study and report on federal actions to support the cybersecurity of commercial satellite systems, including those involved with critical infrastructure sectors.

Please make in order Amendment Number 488 proposed by Rep. Glenn Thompson (R-PA) that would require the Secretary of Defense to submit a report on the impact that low recruitment and retention in the Armed Forces are having on current operations, including the physical and mental health of service members. This is a highly merit worthy endeavor and if done objectively and completely would address how the civilian workforce can mitigate these stresses on the military.

Please make in order Amendment Number 507 proposed by Rep. Connolly (D-VA) that would require that key stakeholders and resources are not left out of the creation of agency performance plans. The Performance Enhancement Reform Act would amend Section 1115 of title 31, United States Code, to: (1) Require agencies' Performance Improvement Officers, where applicable, to work in consultation with other C-Suite officials to prepare the annual performance plans; (2) Require performance plans to include descriptions of human capital, training, data and evidence, information technology, and skill sets needed for the agency to meet the agency's performance goals; and (3) Require performance plans to include descriptions of technology modernization investments, system upgrades, staff technology skills and expertise, stakeholder input and feedback, and other resources and strategies needed to meet the agency's performance goals.

Please make in order Amendment Number 513 proposed by Rep. Houlahan (D-PA), Rep. Gallagher (R-WI), Rep. Turner (R-OH) and Rep. Garbarino (R-NY) that would direct the Secretary of Defense to establish a program to provide financial support for pursuit of programs of education at institutions of higher education that have been designated as a Center of Academic Excellence in Cyber Education. Recipients of the financial support will incur a post-award employment obligation for a period equal to the length of the scholarship in a cyber or digital technology relation mission of the Department of Defense. While this program is an improvement over current programs that only cover three years, this is still not comparable to the military Reserve Officer Training Corps scholarship programs which cover complete undergraduate, and where appropriate, professionals and graduate degrees. Greater diversity in participation will occur the more this is like ROTC Scholarships, as persons from modest economic backgrounds are unlikely to be able to incur the debt to complete degrees under this program. We are additionally concerned with this amendment's inclusion of the Department's authority to obtain so-called "voluntary services" in section 1588f of title 10 in recruiting for this program. Given the punitive measures included for paying back the scholarships, the inclusion of section 1588f seems inappropriate.

Please make in order Amendment Number 517 proposed by Rep. Jayapal (D-WA) that would end the Medicare Direct Contracting and ACO REACH program by January 1, 2023. There are legitimate concerns that this program was an effort to privatize Medicare and weaken the ability of beneficiaries to choose between all Medicare-enrolled providers and suppliers.

Please make in order Amendment Number 540 proposed by Rep. Schiff (D-CA) that would prohibit the use of evidence obtained by or with the assistance of a member of the Armed Forces in violation of the Posse Comitatus Act in a court or other legal proceeding.

Please make in order Amendment Number 541 proposed by Rep. Watson Coleman (D-NJ) and Rep. Bennie Thompson (D-MS) that would reduce the number of firearms at TSA passenger screening checkpoints by directing the TSA Administrator to carry out a range of activities to inform the public about restrictions regarding the carrying of firearms in sterile areas of airports and to strengthen enforcement of such restrictions.

Please make in order Amendment Number 553 proposed by Rep. Lamb (D-PA) that would ensure veterans' service-connected medical qualifications and expertise are utilized by the VA and civilian healthcare facilities to meet challenges during public health emergencies.

Please make in order Amendment Number 557 proposed by Rep. Lamb (D-PA) that would direct the Secretary of Veterans' Affairs to establish a two-year pilot program to employ veterans for projects of the Departments of the Interior and Agriculture.

Please make in order Amendment Number 592 proposed by Rep. Escobar (D-TX) that would ensure that internships and fellowships are included in the recommendations to be submitted to Congress on the modification or expansion of workforce development programs of the Department that will be used to increase the proportion of the workforce hired from historically Black colleges and universities and other minority serving institutions.

Please make in order Amendment Number 629 proposed by Rep. Speier (D-CA) that would require GAO to conduct a study on government contractors that have historically supplied goods to executive agencies using distributors or other intermediaries and the impact of this practice on the ability of the U.S. government to acquire needed goods at reasonable prices.

Please make in order Amendment Number 647 proposed by Rep. Case (D-HI) that would require the military to send additional information to Congress and the Director of Cost Assessment and Program Evaluation to conduct or approve independent cost estimates, to include the plan to manage the supervision, inspection and overhead for projects in excess of \$500,000,000.

Please make in order Amendment Number 689 proposed by Rep. Schakowsky (D-IL) that would establish a preference for Department of Defense offerors that meet certain requirements pertaining to corporate governance, employee benefits, and part-time employment practices.

Please make in order Amendment Number 723 proposed by Rep. Jayapal (D-WA) that would remove the section 1093 of title 10 restriction on use of Department of Defense facilities for abortion care.

Please make in order Amendment Number 735 proposed by Rep. Garamendi (D-CA) that would provide for accelerated progress payments to defense contractors who meet certain DOD goals for performance, and limit progress payments for large defense contractors. This amendment would incentivize larger contractors toward better performance as a condition of receiving higher amounts of government progress payment financing without affecting the profitability of individual contracts.

Please make in order Amendment Number 753 proposed by Rep. Gottheimer (D-NJ) that would establish an Office to Counter Domestic Violent Extremism within the Office of the Secretary of Defense to coordinate activities to address extremism in the ranks and as a threat to the force.

Please make in order Amendment Number 764 proposed by Rep. Courtney (D-CT); Rep. Case (D-HI); Rep. Kilmer (D-WA); Rep. Norcross (D-NJ); Rep. Wittman (R-VA); and Rep. Bobby Scott (D-VA) that would direct a GAO review of the parity between the Federal Wage System (FWS) and the prevailing wage rate for wage grade workers who maintain, repair, or help support those who maintain or repair U.S. Navy ships or submarines at the four U.S. Navy public shipyards or at naval bases in competitive job markets. Directive report language in the National Defense Authorization Act for Fiscal Year 2022, page 269 states: "We note again that OPM is responsible for overseeing the implementation and administration of the FWS in consultation with other agencies, labor organizations, and the advice of the Federal Prevailing Rate Advisory Committee (FPRAC). Since 2010, the FPRAC has voted three times to recommend that OPM align FWS wage areas with GS locality pay areas across the country. OPM has not implemented these recommendations. We recommend OPM address these longstanding issues as soon as possible." This directive report language is a repeat of language from the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 Conference

Report 116-617 to accompany H.R. 6395, pages 1772-3. This problem affects not just some shipyards but also much of the organic industrial base in the depots, arsenals and Defense Logistics Agency locations in places ranging from New England and the Middle Atlantic States to California. Accordingly, in our view, the scope of this amendment should be expanded to include the depots, arsenals and DLA activities and not just the shipyards. Finally, we believe the GAO should compare the wage grade pay system to the GS pay system and look for the best elements of each system when performing a review.

Please make in order Amendment Number 769 proposed by Rep. Castro (D-TX) that would revise the payment process for certain civilians who receive treatment at military medical treatment facilities (MMTF) by creating a modified payment plan, directing the Defense Secretary to waive certain fees, and allowing the Secretary of Defense to recall any open account arising from care a civilian receives at an MMTF from the Department of Treasury.

Please make in order Amendment Number 784 proposed by Rep. Wexton (D-VA) that would require the Secretary of Defense to conduct a study on the feasibility and benefits of establishing returnship programs for the DOD civilian workforce.

Please make in order Amendment Number 809 proposed by Rep. Schakowsky (D-IL) that would establish a preference for Department of Defense offerors that meet certain requirements pertaining to labor relations.

Please make in order Amendment Number 820 proposed by Rep. Schakowsky (D-IL) that lowers the Truth in Negotiations Act (TINA) dollar threshold from \$2 million to \$750,000, in line with the historic threshold, ensuring that the Department of Defense may obtain current, complete and accurate cost or pricing data for sole source procurements so it can aggressively negotiate prices.

Please make in order Amendment Number 861 proposed by Rep. Bacon (R-NE) and Rep. Kahele (D-HI) that would direct an independent study and report on the effect of pass-through budgeting on the Department of the Air Force. This amendment has substantial merit and lessons learned from the shortcomings to accountability and transparency from pass-through budgeting that was promoted during reinventing government era that could be invaluable.

Please make in order Amendment Number 885 proposed by Rep. Mondaire Jones (D-NY) that would prohibit DoD officers and employees from participating in deliberations or actions likely to impact financial interests of any organization or former direct competitor or client of any organization for which the DoD officer or employee has served with or been employed by in the past four years.

Please make in order Amendment Number 904 proposed by Rep. Mondiare Jones (D-NY) that would require the Department of Defense to submit a plan to assess, review, and provide recommendations to address anti-Asian bias, discrimination, and harassment and to implement the recommendations; and provides a sense of Congress regarding the service of Asian Americans in the Department of Defense.

Please make in order Amendment Number 948 proposed by Rep. Lawrence (D-MI) that would require the Secretary of Defense to develop a training and education plan for Department of Defense members and civilian personnel on handling extremist recruitment and activity.

Please make in order Amendment Number 956 proposed by Rep. Baird (R-IN) and others that would direct the Secretary of Veterans Affairs to ensure the timely scheduling of appointments for health care at medical facilities of the Department of Veterans Affairs.

Please make in order Amendment Number 1004 propose by Rep. Bennie Thompson (D-MS) that would enhance the security operations of the Transportation Security Administration and stability of the transportation security workforce by applying the personnel system under title 5, United States Code, to employees of the Transportation Security Administration. The Transportation Security Administration (TSA) workforce is among our first line defenses in the Homeland Security mission, and recruitment and retention of a quality workforce is greatly enhanced by affording this workforce the same title 5 collective bargaining rights afforded to the rest of the federal government and most of the workforce in the Department of Defense. This is a bi-partisan bill that reflects TSA input. This amendment honors TSOs' dedication to America's aviation security by:

- Statutorily repealing the TSA Administrator's authority to maintain a separate and unequal personnel system that applies only to the TSO workforce.
- Ending the current TSA personnel directives that have allowed TSA to be the judge and jury, with no neutral third-party review, in workforce disciplinary matters and providing statutory access to the Merit Systems Protection Board.
- Requiring TSA to follow the labor-management employee relations statutes that provide workplace rights and protections to most federal employees under Title 5 of the U.S. Code; and
- Putting TSOs on the General Schedule pay scale with regular step increases, under which most federal employees' pay is determined. While it takes 18 years to advance to the top step in the GS system, it takes **30 years to advance through a TSA pay band.**

Please make in order Amendment Number 1019 proposed by Rep. Wasserman Schultz (D-FL) that would require the Air Force and Army to provide a briefing within 90 days of the enactment of this bill, to the House Armed Services Committee and Appropriations Committee, on the way ahead for providing appropriate childcare at Camp Bull Simons, Eglin Air Force Base.

Please make in order Amendment Number 1043 proposed by Rep. Speier (D-CA) that would require OPM to create a supplement to the Federal Employee Viewpoint Survey to assess federal employee experiences with harassment and discrimination.

Please make in order Amendment Number 1050 proposed by Rep. Escobar (D-TX) that would direct the Secretary to assess deficiencies and rehabilitate repair, or retrofit as needed all facilities in the Military Health System.

Please make in order Amendment Number 1072 proposed by Rep. Christopher Smith (R-NJ) that would direct the Army Corps of Engineers to provide each Army Corps district with clarifying and uniform guidance that conforms with the U.S. Department of Labor's regulations and guidance with respect to proper implementation and enforcement of existing laws regarding worker classification by federal construction contractors and subcontractors.

Please make in order Amendment Number 1076 proposed by Rep. Manning (D-NC) that would require the Secretary of Defense to report to Congress on the role of antisemitism in violent extremist movements.

Please make in order Amendment Number 1082 proposed by Rep. Schneider (D-IL) that would direct the FBI, Department of Homeland Security, and the Secretary of Defense to publish a report that analyzes and sets out strategies to combat White supremacist and neo-Nazi activity in the uniformed services and Federal law enforcement agencies not later than 180 days after enactment and every 6 months thereafter.

Please make in order Amendment Number 1083 proposed by Rep. Kilmer (D-WA), Rep. Fitzpatrick (R-PA) and Rep. Adam Smith (D-WA) that would codify executive order 14063 regarding the use of Project Labor Agreements in federal construction projects.

Please make in order Amendment Number 1104 proposed by Rep. Kathleen Rice (D-NY) that would require a report to Congress by the FBI and DHS, in consultation with DNI, on compliance with reporting requirements under the FY 2020 NDAA related to domestic terrorism and a summary of findings; requires a GAO report on FBI, DHS, and DNI compliance with domestic violent extremism transparency mechanisms required by Federal law.

Please make in order Amendment Number 1107 proposed by Rep. Speier (D-CA) that would extend the length of time federal employees have to approach an EEO (Equal Employment Opportunity) office from 45 days to 180 days, creating parity with the 180 days given to private sector, state and local government, and Congressional employees.

Please make in order Amendment Number 1115 proposed by Rep. Espaillat (D-NY) that would require that Veterans Affairs Hospitals submit a Locality Pay Survey to ensure that VA nurse pay stays competitive.

Please make in order Amendment Number 1118 proposed by Rep. Schneider (D-IL) that would require a report to Congress by DNI and a GAO report on how the FBI and Department of Homeland Security followed through on data collection requirements and reporting on domestic terrorism as required by a provision in the Fiscal Year 2021 NDAA.

Please make in order Amendment Number 1119 proposed by Rep. Schneider (D-IL) that would require a DOD report to update the status of domestic terrorism threat and mitigation measures based on the Countering Extremist Activity Working Group's recommendations, released by the Secretary of Defense in December 2021.

Please make in order Amendment Number 1121 proposed by Rep. Aguilar (D-CA) that would require DoD to update Congress on the status of implementing the recommendations from the October 2021 report on screening individuals entering the military. This requires DoD to implement recommendations from the Department's Countering Extremist Activity Working Group report published in December 2021.

Please do not make in order the following divisive and frivolous amendments proposed by Rep. Gaetz (R-FL), such as Amendment Number 2 that combating extremism in the ranks should not be a priority of the Department of Defense; Amendment Number 3 disparaging the Secretary of Defense; Amendment Number 7 that would weaken compliance of military members with the vaccine mandate; amendment number 8 that would impede DoD from making PCS moves when the reason for the PCS move is a military member's disagreement with state or local law.

Please do not make in order Amendment Number 9 proposed by Rep. Van Duyne (R-TX) that would permanently suspend the vaccine mandate for DoD contractors.

Please do not make in order Amendment Number 174 proposed by Rep. Burgess (R-TX) that would strike section 343 which prohibits the DoD from purchasing firefighting equipment containing PFAS.

Please do not make in order Amendment Number 189 proposed by Rep. Houlihan (D-PA) and Rep. Fallon (R-TX) that would establish a public-private partnership and loan guarantee investment pilot

program managed through the Under Secretary of Defense for Acquisition and Sustainment by creating incentives for “trusted private capital in domestic small businesses or nontraditional businesses that are developing technology” that the Secretary deems necessary to support modernization. The revolving door between the Under Secretary of Defense for Acquisition and Sustainment and the private sector at all levels of the organization make this program one that is rife for corruption and ethical conflicts, notwithstanding the very limited minimal requirements for possessing a security clearance and not including foreign ownership.

Please do not make in order Amendment Number 262 proposed by Rep. Gosar (R-AZ) that would extend the suspension of the COVID-19 vaccine mandate for DoD contractors to include members of the Armed Services and DoD civilian workers.

Please do not make in order Amendment Number 267 proposed by Rep. Schweikert (R-AZ) that arbitrarily strikes all additional inflation-adjustment spending for fuel inflation, civilian personnel inflation pay, and mil-con costs to complete inflation adjustment spending. Given the ample testimony before the HASC on the effects of inflation, it is unreasonable to arbitrarily strike provisions intended to deal with these issues.

Please do not make in order Amendment Number 327 proposed by Rep. Roy (R-TX) that would prohibit federal funds from going to Chief Diversity Officers, Senior Advisors for Diversity or Inclusion, or anything substantially similar at the DoD.

Please do not make in order Amendment Number 341 proposed by Rep. Van Duyne (R-TX) that would allow the rollover of up to 10 percent of unobligated operations and maintenance funds.

Please do not make in order Amendment Number 406 proposed by Rep. Austin Scott (R-GA) that would abolish the Armed Forces Policy Council. This kind of proposal, if reasonable, would most appropriately have been vetted within the HASC markup and resulted from the regular order of hearings and public testimony.

Please do not make in order Amendment Number 412 proposed by Rep. Austin Scott (R-GA) that would require the Secretary of a military department, when making basing decisions, to take into account the extent to which high-quality public education is available and accessible to dependents of members of the Armed Forces in the military housing area by comparing progress of students served by relevant local educational agencies. This criteria is just a common pretextual basis for reinforcing discriminatory practices in violation of civil rights laws.

Please do not make in order Amendment Number 444 proposed by Rep. Banks (R-IN) that would prohibit any Thrift Saving Plan Fund investment in the entities of the People’s Republic of China. Investments in federal employee retirement funds should meet fiduciary standards applied to private sector retirement plans and not the vagaries of politics. This would just arbitrarily diminish the value of federal employee retirement holdings to serve the purposes of political theatrics.

Please do not make in order Amendment Number 458 proposed by Rep. Foxx (R-NC) and Rep. Speier (D-CA) that would require the Secretary of Defense to consult with stakeholders to develop guidelines for the acquisition of Intellectual property (e.g., ethnological processes), to include model forms and definitions of key terms. The government already is encountering substantial impediments in accessing intellectual property adversely affecting the ability of deployed military and civilian employees in the organic industrial base to provide needed support to weapon systems, adversely affecting sustainment costs and readiness. This kind of substantive proposal should have been included in the markup under regular order so that some ambiguities and the stakeholders to be consulted would have

considered governmental equities and not just those of the private sector. We are also concerned with designating the lead for developing these guidelines with industry being solely centered with the Under Secretary of Defense for Acquisition and Sustainment, given the revolving door that exists at all levels within that office and industry.

Please do not make in order Amendment Number 482 proposed by Rep. Davidson (R-OH) that would reduce the number of two, three, and four star general billets for each year in which the Department of Defense fails to successfully conduct its required audit. We have previously written numerous times about how taking adverse actions impairing the resourcing and missions of any sovereign entity based on the misapplication of accrual accounting concepts in the financial audit is lacking in economic substance for appropriated fund entities.

Please do not make in order the frivolous and divisive Amendment Number 497, uninformed by science, proposed by Rep. Mike Johnson (R-LA), Rep. Mike Gaetz (R-FL) and Rep. Good (R-VA) that would require the Secretary of Defense to rescind the Covid vaccine mandate for members of the Army, Navy, Marine Corps, Air Force, and Space Force within 30 days.

Please do not make in order the frivolous and partisan Amendment Number 499 proposed by Rep. Walorski (R-IN) that would risk national security and the confidential advice provided to presidents by opening the National Security Council to requests under the Freedom of Information Act.

Please do not make in order the frivolous and divisive Amendment Number 500 proposed by Rep. Davidson (R-OH) that prohibits “critical race theory” in the service academies.

Please do not make in order the frivolous, divisive and partisan Amendment Number 510 proposed by Rep. Fallon (R-TX) that would reimburse the State of Texas for the self-inflicted inflationary costs associated with Operation Lone Star.

Please do not make in order the frivolous, divisive and partisan Amendment Number 512 proposed by Rep. Roy (R-TX) that would strike line 16-18 in Section 516 to exclude the Mayor of Washington, D.C.

Please do not make in order Amendment Number 518 proposed by Rep. Burgess (R-TX) that would strike section 342 subsection A which allegedly modifies the previously narrow definition of PFAS and PFOS to a much broader definition.

Please do not make in order Amendment Number 593 proposed by Rep. Franklin (R-FL) that would prohibit DoD from leasing any land on any military installation to any organization that provides abortion services.

Please do not make in order Amendment Number 596 proposed by Rep. Stauber (R-MN) and Rep. Peters (D-CA) that will allow small businesses to request an equitable adjustment from the contracting officer if the contracting officer places a change order without the agreement of the small business. This also requires the federal government to pay at least 50% of costs occurred (*sic*) from the change order upon receipt of the equitable adjustment. This provision turns small business contracting exclusively into an entitlement program placing at risk the fiduciary interests of the United States. This upends over a century of well-established government contracting law, and would also impede obtaining substantial savings from insourcing high risk or inappropriate contracts, such as those implicating “inherently governmental” or “critical” functions as required by section 2463 of title 10.

Please do not make in order Amendment Number 610 proposed by Rep. Turner (R-OH) and Rep. Wittman (R-VA) that, under the guise of Congressional findings and a Sense of Congress that the defense industrial base is critical for national security, provides a biased distillation of findings that would further weaken the ability of the Department of Defense to be a smart buyer of goods and services and to negotiate at reasonable cost access to intellectual property needed to enhance readiness and reduce sustainment costs. This provision, if reasonable, should already have been included in the markup under regular order.

Please do not make in order Amendment Number 624 proposed by Rep. Kahele (D-HI) that would make a modification to specifically include “munitions-related services” to the list of services excluded from lowest price technically acceptable (LPTA) contracting. Contracting officers, using appropriate specifications, should have full discretion to determine the best source selection techniques that meet quality and pricing requirements of the government.

Please do not make in order Amendment Number 641 proposed by Rep. Steil (R-WI) directing the Veterans Affairs (VA) and the Military Health System to submit a report detailing the percentage of technetium 99m patient doses procured from domestically manufactured molybdenum 99. In addition, as soon as practical, safe, and cost-effective, and as early as FY 2023, both the VA and the Military Health System must begin to use an increasing amount of technetium 99m patient doses procured from domestically manufactured molybdenum 99 and should have plans to grow this percentage of technetium 99m patient doses procured from domestically manufactured molybdenum 99, as long as the requirement does not result in a cost increase compared to the competitive market.

Please do not make in order Amendment Number 666 proposed by Rep. Gonzales (R-TX), Rep. Kahele (D-HI), Rep. Bice (R-OK), Rep. Carbajal (D-CA), Rep. Salazar (R-FL), and Rep. Golden (D-ME) that would reintroduce a provision included in last year’s House bill, and then dropped during Conference negotiations, purporting to establish a National Digital Reserve Corps. Our longstanding concerns with this provision are that its current configuration is more of a “make-work” jobs program allowing members of industry to temporarily work in governmental assignments and gain access to information more valuable to their employers than of any longstanding benefit to the government. The central flaw is the centering of the determination of the mobilization requirement in the General Services Administration (GSA) rather than within the Executive Agencies where the work is to be done. If this were managed like a real bona-fide Reserves program within the Department of Defense, the rigorous threat-based and workload based force structure modeling efforts done by the Military Departments in conjunction with the Joint Staff and Office of Secretary of Defense would drive the requirement, and not a proponent of a program trying to find “30 day” stints in executive agencies centered in the GSA. This is a highly wasteful program that may brief well on the surface and in no way should be included in the NDAA.

Please do not make in order the following frivolous, divisive and non-germane to Defense Amendments proposed by Rep. Boebert (R-CO): Amendment Number 685 pertaining to prohibiting protection orders; Amendment Number 691 repealing Pub. Law 117-159, the "Bipartisan Safer Communities Act;" Amendment Number 692 striking section 5702 pertaining to a minimum wage for federal contractors; Amendment Number 699 prohibiting use of federal funds to issue an extreme risk protection order; Amendment Number 702 redirecting \$1 billion to completion of the southern border wall; Amendment Number 740, that would impair the ability of the Joint Chiefs of Staff to perform their duties; and Amendment Number 866 that would strike Section 516; Amendment Number 925 that would interfere with TRICARE covering various treatments for transgender individuals; Amendment Number 938 interfering with the Department’s vaccination efforts; Amendment Number 960 that strikes section 572, which discharges service members that have violated Department of Defense Instruction 1325.06 relating to extremist activity; Amendment Number 984 that reinstates Trump’s Transgender ban;

Amendment Number 1014 that would prohibit the federal government from leasing federal property to abortion providers.

Please do not make in order Amendment Number 695 proposed by Rep. Biggs (R-AZ) that would exempt DoD from the Endangered Species Act.

Please do not make in order Amendment Number 701 proposed by Rep. Biggs (R-AZ) that would arbitrarily reduce the discretionary budget authority available for the Department of Defense, the military department, or a Defense Agency by .5 percent if it does not obtain an unqualified audit opinion. This will harm national security and the department's missions and has absolutely nothing to do with saving the taxpayer dollars. In fact, it is our belief that the billions of dollars spent on the financial audit are wasteful as they fallaciously apply accrual accounting concepts to sovereign entities funded primarily through annual appropriations, where the valuation of assets and liabilities carries no economic significance. This is a nonsensical and harmful amendment.

Please do not make in order the frivolous, divisive and partisan Amendment Number 710 proposed by Rep. Biggs (R-AZ) that would weaken NATO precisely when this nation's security is dependent on maintaining strong alliances.

Please do not make in order Amendment Number 713, proposed by Rep. Kildee (D-MI) that expresses a Sense of Congress that continued efforts are needed to address weaknesses identified in DOD's financial statement audits. As we have stated on numerous occasions, the billions spent on the financial audits are wasted efforts as they misapply private sector accrual accounting concepts to sovereign entities funded through annual appropriations where there is often no economic substance to the valuations of such assets and liabilities.

Please do not make in order the frivolous and divisive Amendment Number 715 proposed by Rep. Massie (R-KY) and others that prohibits the use of funds to mandate or require a COVID-19 vaccine for any member of the U.S. Armed Forces. This endangers the civilian workforce and surrounding communities and is completely ungrounded in science.

Please do not make in order Amendment Number 741 proposed by Rep. Manning (D-NC) that would limit goods from being sold in commissary stores and military exchanges without placing similar limitations on their private sector competitors, and thereby not really addressing the alleged concern and only creating conditions to privatize the Defense Resale System. Both the underlying provision in the NDAA and this Amendment are disingenuous exercises in expressing outrage about labor conditions in China because they do not apply the same limitations to the private sector competitors of the Exchanges and therefore will do nothing to accomplish the intended objectives other than to privatize the Exchanges.

Please do not make in order Amendment Number 833 proposed by Rep. Sherrill (D-NJ) that would amend DoD's Other Transaction Authority (OTA) authority to allow for prototyping for DoD installations and facilities engineering. OTAs are a major loophole from compliance with various statutory and regulatory provisions that can affect working conditions and fair treatment of workers, as well as ensuring that the government is a smart buyer able to obtain fair and reasonable prices.

Please do not make in order Amendment Number 853 proposed by Rep. Dan Bishop (R-NC) that would raise the divisive political canard of supposed critical race theory being promoted by the Department of Defense.

Please do not make in order Amendment Number 899 proposed by Rep. Trent Kelly (R-MS) that would further privatize VA missions by including health care providers at institutions of higher learning

approved for educational assistance furnished by the Secretary of Veterans Affairs within the Veterans Community Care Clinic program.

Please do not make in order Amendment Number 928 proposed by Rep. Christopher Smith (R-NJ) that would interfere with the Department's ability to enforce COVID-19 mandates needed for the well-being of its members and employees.

Please do not make in order Amendment Number 949 proposed by Rep. Cloud (R-TX) that would place two-year sunsets on all future military authorizations and reauthorizations.

Please do not make in order Amendment Number 981 proposed by Rep. Mark Green (R-TN) that would reinstate members of the Armed Forces separated from service solely for their refusal of the COVID-19 vaccine to their previous rank and grade if desired.

Please do not make in order Amendment Number 989 proposed by Rep. Wittman (R-VA) that would establish still another redundant open-ended reporting requirement for further piecemeal changes to personnel practices. No one can quarrel with the Department needing a strategic plan to achieve, as this Amendment claims is an objective, an ability to compete in a contested information environment. However, another report with requested legislative proposals for making changes to personnel practices introduces a level of turbulence and uncertainty to the recruitment and retention process that itself becomes an impediment to closing competitive skills gaps. As the Defense Business Board recently opined on talent management and upskilling the Cyber and AI workforce, there are already ample statutory authorities that exist in title 5, U. S. Code, which if they were fully complied with, would largely facilitate closing these skills gaps. The recruitment and retention problem for purposes of human capital planning is more of a cultural and business practices issue than one requiring still more piecemeal "reforms."

Please do not make in order Amendment Number 1054 proposed by Rep. McCaul (R-TX) that would expand the availability of DoD funds authorized by section 4021 and 4022 of title 10, U.S. Code for certain critical technology for nontraditional defense contractors. This creates further opportunities for fraud, waste and abuse and weakens the government's ability to be a smart buyer.

Please do not make in order Amendment Number 1087 proposed by Rep. Waltz (R-FL) that would limit the ability of the Thrift Saving Plan to invest in Chinese markets. This proposal is completely at odds with the fiduciary standards that apply to private sector retirement plans and would potentially diminish the value of federal employee retirements.

Please do not make in order Amendment Number 1125 proposed by Rep. Stauber (R-MN) that would require the DoD to report every 60 days on the number of religious and medical exemptions for the COVID-19 vaccine requirement requested and denied.

We urge you to consider AFGE's position on the above amendments to H.R. 7900, the "National Defense Authorization Act for Fiscal Year 2023" as you decide which amendments to make in order. For questions or more information please contact John Anderson at john.anderson@afge.org or 703-943-9438.

Sincerely,

A handwritten signature in black ink that reads "Daniel M. Horowitz". The signature is written in a cursive style with a large, sweeping flourish at the end.

Daniel Horowitz
Deputy Director of Legislation

CC: HASC