

**CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA**

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To the Members of the Conference on the National Defense Authorization Act (NDAA) for Fiscal Year 2020:

The U.S. Chamber of Commerce urges you to ensure provisions of the House-passed bill based on H.R. 1033, the “Return Expenses Paid and Yielded (REPAY) Act,” which would hurt the competitiveness of American firms in a highly competitive global market, are not included in the conference report.

Current law provides domestic defense contractors with a critical opportunity to be competitive in the global market. Via an Administration waiver process, U.S. firms are often allowed to avoid recouping Nonrecurring Costs of Research, Development, and Production that have been viewed as a sunk cost investment in the development of U.S. military capability. Foreign governments treat similar investments as a sunk cost, have no legislated requirement to recoup these costs, and therefore do not require their industries to add these costs into their bid and proposals.

H.R. 1033 would effectively remove the Administration’s waiver authority, requiring the President to notify Congress of a proposed waiver and giving Congress 60 days in which to consider such a waiver. The removal of the Administration’s authority and imposition of the additional 60-day review would add significant time to the current foreign military sales offer timeline – a timeline that many Members of Congress have expressed a desire to see shortened. Such uncertainty and added decision time would undermine the ability of our industries to effectively compete in the highly competitive global marketplace.

The REPAY Act provisions of the House-passed NDAA would create new uncertainty and burdens that would disadvantage American industry at a time when the global military marketplace is becoming increasingly competitive.

Sincerely,



Keith Webster