

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

NEIL L. BRADLEY
EXECUTIVE VICE PRESIDENT &
CHIEF POLICY OFFICER

1615 H STREET, NW
WASHINGTON, DC 20062
(202) 463-5310

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TO THE MEMBERS OF THE U.S. HOUSE OF REPRESENTATIVES:

The U.S. Chamber of Commerce supports H.R. 4350, the “National Defense Authorization Act for Fiscal Year 2022,” which would authorize \$778 billion in discretionary spending for national defense commitments at home and abroad. Passage of this important legislation will strengthen and advance the National Defense Strategy and ensure that unfunded procurement, research, and readiness priorities of the services are met. This legislation should serve as a model for bipartisan cooperation as members of both parties have worked together to produce a bill that ensures that our nation’s servicemembers have resources they need to defend freedom. We appreciate the Committee’s work in crafting this legislation and ask that you consider our recommendations.

We strongly support a robust defense industrial base and flexibility for federal contractors to provide the goods and services that the Department of Defense needs. Chamber members represent nearly all the federal contracting supply chain, from the smallest components to the largest weapon systems for the Department of Defense. The Chamber commends inclusion of section 802, which would provide the Department of Defense the statutory flexibility to reimburse its contractor workforce for unforeseen facility closures during a declared pandemic related emergency. This unique authority would expand section 3610 of the CARES Act (P. L. 116-136), which was essential in ensuring the resiliency of the defense industrial base and provided for the delivery of mission critical military equipment and services.

In addition, the Chamber believes H.R. 4350 would be improved if it were **amended** in several key areas:

Domestic Source Requirements: The Chamber is concerned with acquisition mandates contained in the bill, which would impose numerous changes to the conditions under which U.S. defense companies could source materials and components to support production and services. Specifically, section 834 would impose additional domestic content requirements for major defense procurement programs. As Congress is seeking to mitigate the broad economic challenges confronting the nation, such additive compliance regimes would strain already fragile supply chains with direct impact upon small business subcontractors. Moreover, by constraining the ability of defense companies to source materials, reduced availability will raise costs and negatively affect production and delivery schedules.

Working Group on Digital Assets: We support this bipartisan amendment which is identical to H.R. 1602, the Eliminate Barriers to Innovation Act of 2021. This legislation passed the House without opposition on April 20, 2021. The bill would require the Securities and Exchange Commission (SEC) and the Commodities Futures Trading Commission (CFTC) to establish a working group on digital assets to analyze the current regulatory landscape and issue

recommendations to improve the market. Importantly, the working group on digital assets would include representatives from the private sector to inform its analysis and recommendations. We believe the private sector perspective is critical, especially individuals with hands-on experience with confronting regulatory ambiguities or challenges that are inhibiting innovation. The scope of the analysis and reports required for the working group on digital assets is appropriately tailored and balances innovation with investor protection.

The Chamber urges you to **oppose** efforts to weaken this important legislation, including provisions and amendments related to:

Arbitration and Class Action Litigation: We strongly oppose amendments that would limit the availability and usage of pre-dispute arbitration clauses or would prohibit or otherwise limit class action waivers. The Chamber also opposes anti-arbitration language contained in Section 559A of the legislation. The Chamber believes that limitations would lead to costly, time-consuming, and adversarial litigation for service members and veterans while only serving to enrich the class action plaintiffs' bar.

Per- and polyfluoroalkyl substances (PFAS): We oppose amendments and provisions of the bill that would circumvent existing, well-established regulatory processes and predetermine outcomes related to cleanup of PFAS contaminated sites. We ask you to oppose amendments and language that would further restrict the procurement of PFAS-containing products and the temporary ban on incineration by the Department of Defense. The Chamber will continue to support the ongoing Environmental Protection Agency (EPA) process to evaluate sites, establish appropriate regulatory standards supported by sound science, and facilitate expeditious cleanups.

Contractor Debarment: The amendment offered by Representative Jayapal is unnecessary and redundant as a suspension and debarment process is already in place that federal contracting officers can utilize. This amendment would bypass and complicate that process. Furthermore, the Fair Labor Standards Act (FLSA) provides for remedies and penalties for contractors in violation, which are vigorously pursued by the Department of Labor, that are applied to employers when they violate the FLSA. There is no need for additional penalties. Finally, this amendment would invite opponents of a contractor to generate FLSA violation allegations to undermine that contractor's position.

Attempts to Circumvent CFIUS (Committee on Foreign Investment in the United States): The Chamber opposes amendments which would require a CFIUS (Committee on Foreign Investment in the United States) review of real estate transactions by foreign entities or companies controlled by foreign entities from as far away as 100 miles from domestic U.S. military installations and training ranges. While the issues raised are important, they were already addressed in the Foreign Investment Risk Review Modernization Act of 2018. CFIUS, in which the Department of Defense maintains a leading role, is fully empowered to write regulations, as needed, to scope the appropriate response to real estate transactions that hold the potential to raise legitimate national security concerns. The amendment's extremely broad geographic scope and associated mandatory filing would impose a severe administrative burden on the government and on those who manage real estate investments.

Credit Transparency: We oppose this amendment which would prevent creditors from being made available a full picture of a borrower's risk of default, which could cause them to be offered a loan they are unable to repay. This amendment's approach could unintentionally hurt servicemembers and their spouses by prohibiting information important to creditors, such as adverse actions or inaction on their credit report, from appearing in those reports.

Credit Reporting Ombudsman: We oppose this amendment as it is unnecessary given existing authority and resources of the Consumer Financial Protection Bureau (CFPB) to assist servicemembers and veterans in resolving credit reporting errors. The CFPB already supervises the largest consumer reporting agencies to ensure they are complying with consumer protection laws including the Fair Credit Reporting Act. Additionally, the CFPB already has an Office of Servicemember Affairs which works to help military families overcome unique financial challenges by providing educational resources, monitoring complaints, and working with other agencies to solve problems faced by servicemembers.

Medical Debt Collection: We oppose this amendment as it is unnecessary and would increase the cost of healthcare for servicemembers. The amendment would prohibit the collection of medical debt for two years, including legitimate debts, which would impose an extreme financial strain on healthcare providers that would be passed down to all consumers, including servicemembers, or lead providers to reduce the availability of the critical medical services they provide today. The two-year delay may seem like a brief period, but throughout history data shows that the older the debt the harder it is to collect.

The amendment would prohibit debt arising from medically necessary procedures from ever appearing on a servicemember credit report. The Chamber strongly cautions against the banning of reporting any information related to medical debt (or otherwise) to credit bureaus. This information enables creditors, such as banks and credit unions, to understand a borrower's ability to repay a loan. Not only does this protect the safety and soundness of the financial institution, but it plays a critical consumer protection function since it helps institutions avoid extending credit to borrowers who are likely to default. And while the legislation limits the reporting ban to information relating to debt arising from "medically necessary procedure," that term is constructed so broadly that it would cause significant confusion and prevent reporting of any information about medical debt.

Moratorium on Private School Debt Collection: We oppose this amendment because it would make it more difficult to obtain affordable financing for higher education. It would prohibit the collection of private student loan debts and would require the furnishing of inaccurate information to consumer reporting agencies through September 30, 2023. By restricting the collection of private student loan debt and creating more uncertainty about the future collection of debt, it will make it more difficult for creditors to make affordable loan options available. The amendment also raises serious consumer protection issues given it would require servicers to report inaccurate information that would blind creditors about borrower's ability to repay future loans.

Provisions on Russian Sovereign Debt: The Sherman Amendment would prohibit U.S. banks from purchasing ruble-denominated bonds, which would limit the ability of U.S. banks to serve their U.S. corporate clients operating in Russia. Basic operations relating to payroll and vendor payments would become impossible. While intended to impose constraints on the

Russian government, the legislation would have insignificant effect on its ability to secure funds in global markets – given the Russian government’s strong foreign exchange and gold reserves – while severely harming U.S. companies’ operations in Russia and benefitting their competitors based elsewhere.

Ban on Olympic Sponsors: We oppose any amendments that would punish U.S. sponsors of the Olympics, whose support is critical for our athletes. Specifically, we oppose any amendments that would seek to prohibit persons, entities, and municipalities that conduct business of any kind with the International Olympic Committee (IOC) or the Beijing Organizing Committee for the 2022 Olympic and Paralympic Winter Games (BOCOG) from providing goods or services to the federal government and from having their products sold in Department of Defense facilities. We oppose this approach because it could directly harm Team USA athletes and their athletic programming and services. Additionally, withholding private financial support for the Olympic Movement will put Team USA athletes at a significant disadvantage to their international government-funded competitors. It punishes U.S. Olympians and Paralympians while not directly influencing or achieving policy aims or outcomes.

GSA (General Services Administration) Federal Procurement Prohibitions: The Escobar Amendment would establish an arbitrary size limitation for private sector companies to provide goods and services to the General Services Administration (GSA) through the e-commerce portal program. This approach would severely limit the GSA from getting the best value for the federal government thus increasing prices. Furthermore, this amendment as drafted would jeopardize small and mid-size businesses who partner with large third-party resellers in support of GSA acquisition objectives.

The Chamber supports H.R 4350, the “National Defense Authorization Act for Fiscal Year 2022.” We believe that passage of this bipartisan legislation is a critical step to ensuring our national defense commitments remain strong in a challenging global environment.

Sincerely,

A handwritten signature in blue ink, appearing to read "Neil L. Bradley", with a stylized flourish at the end.

Neil L. Bradley