



December 10, 2020

## **Key Vote NO on the National Defense Authorization Act, H.R. 6395**

On behalf of our activist community, I urge you to contact your senators and ask them to vote NO on the conference report for the National Defense Authorization Act (NDAA) for FY 2021, H.R. 6395. The \$740.5 billion NDAA for FY 2021 fails to deliver any meaningful reforms and perpetuates the status quo in some areas. It also includes big government power grabs, places burdens on small businesses, and expands the federal bureaucracy.

The primary reasons FreedomWorks has decided to issue a key vote against the NDAA are because of the price tag, the limitations on proposed troop withdrawals in Germany and Afghanistan, the failure of Congress to reform the existing authorization for the use of military force (AUMF) in Iraq, as well as the failure of Congress to prohibit logistical support in unauthorized military activities in Yemen.

President Trump used his authority as commander-in-chief to order the withdrawal of 12,000 troops from Germany because, as he has said, the United States shouldn't be responsible for other countries' failures to make investments in defense. We agree.

He also decided to reduce the American military presence in Afghanistan by 1,500 troops. We have had troops in Afghanistan for 19 years. Critics of this decision -- the bipartisan Forever War Caucus -- can't seem to tell us when we'll finally leave Afghanistan. Only that we can't do it now. After 19 years. As President Trump said directly to Congress in his 2019 State of the Union address, "Great nations do not fight endless wars." The decision to reduce the troop level in Afghanistan was the right one. However, this NDAA explicitly seeks to go against this decision and prevent future decisions like it, by explicitly putting a "limitation on the use of funds to reduce deployment to Afghanistan," depriving the executive of the funds necessary to physically relocate troops.

Furthermore, the conference report leaves out the repeal of the 2002 AUMF in Iraq that was included in the House-passed NDAA. Another provision from the House-passed NDAA that isn't in the conference report is the prohibition of the use of funds to engage in military activities in Yemen.

Our involvement in the ongoing conflict in Yemen has never been authorized by Congress, yet we've continued to be involved in that conflict based on a flimsy interpretation of the 2001 AUMF.

Adding to the fiscal irresponsibility of this NDAA is its continued abuse of Overseas Contingency Operations (OCO) spending. OCO is intended to expedite direct funding for our combat operations overseas and is, therefore, both outside of the DoD's base funding level and outside of the discretionary budgetary caps set by Congress. Increasingly, funding that is not remotely related to the direct provision of war-fighting support for our troops has crept into OCO, to the point that even with our presence in Afghanistan and other Middle East nations diminishing, OCO levels in the FY 2021 NDAA stand at \$69 billion.

This NDAA prohibits the revival of Base Realignment and Closure (BRAC) commissions, in spite of their proving to be one of the few useful fiscal restraints on wasteful defense spending available to Congress -- as noted [by the Pentagon itself](#). The military owns or leases thousands of properties and buildings around the world, many of which are no longer particularly useful or functional, the sale of which could provide both immediate cash and long-term reductions of overhead costs.

Unfortunately, amidst widespread dysfunction in the legislative process in Congress, the NDAA's reputation as one of the few "guaranteed-to-pass" bills each year has made it a prime target for adding on new spending and even brand new laws entirely unrelated to our military and national defense.

Perhaps the most egregious instance in this bill is the inclusion of the [Corporate Transparency Act](#) (CTA), a measure that will place a new federal reporting burden on U.S. small businesses and threaten the privacy rights of millions of Americans. By requiring a confusing new annual report from every small business on all people who qualify as "beneficial owners" -- a term which is unclearly defined -- the CTA [would create](#) yet another paperwork burden on small business, who stand to face criminal fines and penalties if they fail to comply even by mistake.

One of the main drivers of beneficial ownership legislation is the FACT Coalition, which is an organization comprised of many leftist groups, including the AFL-CIO, Citizens for Tax Justice, Fair Share, Friends of the Earth, and Public Citizen. In May 2019, a representative of the Financial Accountability and Corporate Transparency (FACT) Coalition told the [Washington Post](#): "Every official member of our coalition agrees that this information should ultimately be made public."

This is the first step in an end-run around *Citizens United*. Sen. Sheldon Whitehouse (D-R.I.) has [pushed for Congress to require the disclosure](#) of beneficial ownership information, making the connection to "dark money" and donor disclosure. Section 4111 of House Democrats' so-called "For the People Act," H.R. 1, included language similar to the beneficial ownership language in NDAA.

The FY 2021 NDAA also eliminates arguably the one single position inside of the Pentagon that demonstrably saves taxpayer dollars, the CMO. Congress created the position of chief management officer (CMO) inside the DoD in December 2016. The idea for this position was to have someone with significant private sector management and business experience be given the sole responsibility and authority to identify wasteful spending and inefficient bureaucracy. Essentially, by bringing an outsider with private-sector experience and no ties to the defense industry inside the bureaucracy to streamline processes and make the Pentagon more efficient, opportunities for real reform could be identified and implemented.

Stories of bureaucracy and wasteful spending inside the DoD are legendary. In December 2016, the Washington Post reported that the DOD spiked an internal report documenting \$125 billion in waste. The fear, as the Post noted at the time, was that “Congress would use the findings as an excuse to slash the defense budget.” Our friends at OpenTheBooks have also noted the “use-it-or-lose-it” spending habits of all federal agencies, including DOD. Agencies will spend dollars as the fiscal year winds to a close to show that they need more money, not less.

As of July 2020, the CMO’s office had identified \$21 billion in savings or inefficiencies. Clearly, defense contractors aren’t happy with the CMO’s work and worked with their rented friends in Congress to get rid of this much-needed position.

FreedomWorks will count the vote for the conference report for the National Defense Authorization Act (NDAA) for FY 2021, H.R. 6395, when calculating our 2020 Congressional Scorecard and reserves the right to score any related votes or amendments and weigh any votes. The scorecard is used to determine eligibility for the FreedomFighter Award, which recognizes members of the House and Senate who consistently vote to support economic freedom and individual liberty.

Sincerely,

A handwritten signature in black ink, appearing to read 'Adam Brandon', with a stylized flourish at the end.

Adam Brandon  
President, FreedomWorks