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OF THE
UNITED STATES OF AMERICA

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

The U.S. Chamber of Commerce supports H.R. 6395, the “National Defense Authorization Act for Fiscal Year 2021,” which would authorize \$732 billion in discretionary spending for national defense commitments at home and abroad, strengthen and advance the National Defense Strategy, and provide spending within levels set by the 2019 Bipartisan Budget Agreement.

The Chamber supports several specific, important provisions of the bill, including:

- **Establishment of the National Cyber Director (NCD):** The Chamber supports bi-partisan legislations that would create the position of NCD within the executive office of the president. This position would assist in coordinating and deconflicting the U.S. government’s planning and preparation for, and response to, cyber threats across government. Equally important, the NCD would serve as a senior point of contact for the American business community and the international community on cyber defense.
- **Continuity of the Economy:** The Chamber recognizes the critical federal leadership provided to the business community during the COVID-19 pandemic. The Chamber welcomes legislation that would call on the government to develop and maintain a continuity of economy plan to ensure the continuous operation of critical infrastructure assets, national critical functions, and essential workers to the national economy in the event of significant disruption. Such a plan – and its enabling legislation – needs to be developed in close consultation with the private sector, sector coordinating councils, and sector-specific agencies.
- **Strengthening the Cybersecurity and Infrastructure Security Agency (CISA):** CISA plays an increasingly critical role as the nation’s risk advisor and facilitator of alerts, tools, resources, and best practices to improve its cybersecurity position. The Chamber supports legislation that strengthens the agency by extending the agency director’s term limit to five years. This change is needed to further modernize the agency by providing stable, consistent leadership that carries out its authorities, including engaging with the business community before, during, and after cyber incidents.
- **National Artificial Intelligence Initiative Act of 2020 (Division E):** The Chamber supports the inclusion of Division E, provisions similar to H.R. 6216, the “National

Artificial Intelligence Initiative Act,” bipartisan legislation introduced by House Science, Space, and Technology Committee Chairwoman Eddie Bernice Johnson and Ranking Member Frank Lucas. Division E is a step in the right direction to strengthen U.S. global leadership in artificial intelligence (AI) through supporting Federal investments in the AI research and development, provide for interagency coordination, and enable the development of AI standards and frameworks. The Chamber looks forward to working with Congress further on this issue as well as ensure the authorization of an appropriate level of funding.

- **Contractor business systems:** The Chamber supports section 804, which improves the definition for business systems and further aligns Department of Defense contracting actions with commercial sector best practices. The Chamber notes this provision was recommended by the Section 809 Panel's “Report of the Advisory Panel on Streamlining and Codifying Acquisition Regulations” and commends the Senate for ensuring consistency between the National Defense Authorization Act, the Defense Federal Acquisition Regulation Supplement, and Generally Accepted Auditing Standards.

In addition, the Chamber believes H.R. 6395 would be improved if it was amended in several key areas:

- **Delay of Section 889 Part B:** The Chamber strongly supports an amendment offered by Rep. Foxx that would extend the compliance deadline of section 889(a)(1)(B) to January 1, 2022 from August 13, 2020 regarding supply chain sourcing requirements. If part B date is not changed, many businesses with international and domestic operations would be forced to halt their work providing key products and services to agencies, including equipment that is needed to fight the coronavirus pandemic. We look forward to working with Congress and the Administration to resolve issues related to part B going forward
- **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 822 would further restrict access to samarium, neodymium, tungsten, and tantalum for U.S. defense sector use, and section 825 would increase domestic content requirements for major military 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 particular 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.
- **Printed Circuit Boards:** The Chamber is concerned with section 826, related to printed circuit boards, that would limit the ability of the military services to acquire emerging

commercial technologies that do not have similar restrictions in the commercial marketplace. Adding unique military supply chain requirements for acquisition of commercial products and commercially available off-the-shelf products would disincentivize commercial companies from offering their products and services to meet warfighter requirements.

- **Strengthen and enhance critical infrastructures support from the Director of National Intelligence:** The Chamber supports legislation to codify a collaborative relationship between key critical infrastructure sectors and the intelligence community. The Chamber championed the passage of the Cybersecurity Information Sharing Act of 2015, which modernized the exchange of technical threat data between industry and government bodies. However, a gap exists in the nation’s cyber defenses. National intelligence capabilities to protect designated critical infrastructure, who face daily threats from hostile foreign adversaries, are needed to strengthen overall national security. This legislation would ensure that these threats are considered, prioritized, and resourced through existing intelligence community processes.
- **Nuclear Energy Leadership:** The Chamber also supports including provisions based on **H.R. 3306**, the “Nuclear Energy Leadership Act,” and the associated bipartisan amendment #612 filed by Representative Luria. This legislation would facilitate revitalization of U.S. nuclear leadership through support for technology demonstrations, R&D infrastructure, fuel security, and workforce development. These activities are essential to restoring a robust civil nuclear industry, and would benefit national security by advancing nonproliferation leadership broader U.S. geopolitical objectives and accelerating economic investment in clean energy.

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

- **Concerns About an Email Security Strategy.** The Chamber has concerns about an amendment that would require the Department of Homeland Security (DHS) to develop a strategy to implement Domain-based Message Authentication, Reporting, and Conformance (DMARC) standard across all U.S.-based email providers. Strategies, while often constructive, can lead to suboptimal policy outcomes, especially if they do not reflect robust input from key industry stakeholders. The business community is engaging multiple agencies, including DHS and the Department of Commerce, on public-private initiatives to mitigate malicious email. DMARC is in the process of being adopted by the internet security community. The Chamber urges policymakers to avoid interventions that interfere with innovation and technical breakthroughs, divert business personnel to managing new engagements, and/or disrupt ongoing deployments and upgrades to email security.
- **Push Back on Mandatory Cyber Incident Reporting:** The Chamber opposes an amendment that would give DHS authority to compel covered critical infrastructure

entities to report certain cyber incidents to the department. Information sharing requires a two-way street, and a potentially broad reporting threshold could be unworkable in practice and, perhaps, unhelpful because of data overload. From fairness and functional standpoints, the legislative proposal lacks a comparable requirement that government entities share threat information with critical infrastructure.

- **Arbitration and Class Action Litigation:** The House should reject any amendment 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 the anti-arbitration language contained in Section 534(b) of the legislation. The Chamber believes that such limitations would ultimately lead to costly, time-consuming, and adversarial litigation for service members and veterans while only serving to enrich the class action plaintiffs' bar.
- **PFAS:** This bill should avoid attempts to circumvent existing, well-established regulatory processes and predetermine outcomes related to cleanup of PFAS contaminated sites. Please oppose amendments and language that would treat PFAS differently than other chemicals under the Toxic Release Inventory (TRI) or other federal programs and further restrict the procurement of PFAS-containing products by the Department of Defense. The Chamber will continue to support the ongoing EPA process to evaluate sites, establish appropriate regulatory standards supported by sound science, and facilitate expeditious cleanups.
- **Death on the High Seas Act:** We also oppose Amendment 575 which would make multiple excessive amendments to the Death on the High Seas Act (P.L. 66-165) that would grossly expand liability under that statute in numerous contexts.

The Chamber supports H.R 6395, the "National Defense Authorization Act for Fiscal Year 2021." We believe that passage of this legislation is a critical step to ensuring our national defense commitments remain strong.

Sincerely,



Neil L. Bradley