



December 4, 2021

The Honorable Jack Reed
Chairman
Committee on Armed Services
United States Senate
Washington, D.C. 20510

The Honorable Adam Smith
Chairman
Committee on Armed Services
House of Representatives
Washington, D.C. 20515

The Honorable James Inhofe
Ranking Member
Committee on Armed Services
United States Senate
Washington, D.C. 20510

The Honorable Mike Rogers
Ranking Member
Committee on Armed Services
House of Representatives
Washington, D.C. 20515

Dear Chairman Reed, Ranking Member Inhofe, Chairman Smith, and Ranking Member Rogers,

On behalf of the Association of American Universities (AAU) and the Association of Public and Land-grant Universities (APLU), associations whose membership includes more than 200 of our nation's top research universities, we thank you for your leadership on the passage of the fiscal year 2022 (FY22) National Defense Authorization Act (NDAA) and write to share our views on policy provisions and funding levels critical to our national and economic security and provisions about which we have specific concerns. **Please note that, as members of the Coalition for National Security Research (CNSR), our organizations share the Defense Science and Technology (S&T) priorities outlined in the Coalition's letter.**¹

DOD Science and Technology Authorization Levels

Robust authorization levels for DOD Science and Technology (S&T) are essential to research discoveries that lead to new technologies and advance national security. We commend the proposed funding increases to DOD S&T above the Administration's proposed levels, especially for 6.1 basic research programs. Specifically, we urge you to include in the final bill the higher funding level as approved by the House or Senate bill for Defense Basic 6.1 and Applied 6.2 research. Of particular importance to our universities, within these 6.1 basic research accounts we urge you to authorize the highest levels of funding for the accounts listed below:

- University Research Initiatives (URI)
 - Army URI –Senate level of \$103.48 million
 - Navy URI – House level of \$160.14 million
 - Air Force URI –Senate level of \$192.40 million
- Defense Research Sciences (DRS)
 - Army DRS – House level of \$324.29 million
 - Navy DRS – House level of \$489.41 million
 - Air Force DRS – House level of \$357.82 million
 - Defense Wide DRS – House level of \$424.28 million
- Basic Research Initiatives, including the Minerva Research Initiative – House level of \$127.36 million
- National Defense Education Program – House level of \$132.20 million
- Defense Advanced Research Projects Agency (DARPA) –Senate level of \$4 billion

¹ [Coalition for National Security Research NDAA Conference Letter](#)

AAU and APLU strongly support the Minerva Research Initiative and are grateful of the support that both the House and Senate propose for the program. The social and behavioral research efforts supported by Minerva are critical as we look to address national security challenges to advance peace and stability around the world. We greatly appreciate your ongoing support for this program.

Research Security Provisions

Universities take seriously national security threats posed by malign foreign entities. As lawmakers consider new research security provisions, it is important to be mindful of new federal agency requirements, some of which [have already been implemented while others are in the process of being implemented](#), to counter foreign influence threats to research security and to ensure the integrity of U.S. scientific research. At the direction of OSTP, the current Administration is also in the process of [finalizing implementation guidance for National Security Presidential Memorandum 33](#) (NSPM-33) for all relevant federal agencies that fund research. NSPM-33 is the result of a coordinated interagency and policy development process that was first authorized in the FY19 NDAA. The new NSPM-33 requirements are specifically aimed at ensuring that all federal agencies have in place uniform and strong policies to address research security concerns. NSPM-33 resulted from over a year of interagency collaboration to strengthen protections of federal government supported R&D. It is important to give OSTP and the federal agencies time to implement NSPM-33, which is expected to be released imminently, and then assess whether additional policy solutions are required before adding too many new research security provisions to the NDAA currently under consideration. That said, we thank the House and Senate Armed Services committees for working closely with the higher education community to advance a few key research security provisions in this year's NDAA which we agree are worth including in the final bill.

Research Security Training Requirement for Federal Research Grant Personnel

Sec. 240 of H.R. 4350 requires federal research agencies to establish an annual research security training requirement for federal research grant personnel. Universities have taken steps to protect the research they conduct by enhancing training for researchers on security threats and institutional and federal requirements. We support the inclusion of this provision and welcome a coordinated effort across federal agencies to develop guidelines for institutions to use in developing training programs to address the unique needs, challenges, and risk profiles of such institutions. It is our understanding that the National Science Foundation, the National Institutes of Health, the Department of Energy, the Department of Defense, and the Federal Bureau of Investigation are already collaborating on developing shared research security training modules. This provision should help to solidify and harmonize these important agency research security training efforts.

We urge you to include Sec. 240 of H.R. 4350 in the final FY22 NDAA conference agreement.

Admission of Essential Scientists and Technical Experts to Promote and Protect the National Security Innovation Base

The United States' premier higher education and research enterprise draws the top minds from all over the world. At a time when other nations are increasing their research investments and employing strategies to siphon off leading scientists and technologists, we must recommit to winning the global race for talent. Sec. 6446 of the House-passed bill responds to recommendations made in the 2019 Reagan Institute Contest for Innovation Report by providing a new, narrow pathway for ten essential scientific and technical experts to contribute their education and talents to the U.S. National Security Innovation Base. This provision is an example of a smart and modernized approach to talent acquisition.

We urge you to include Sec. 6446 of H.R. 4350 in the final FY22 NDAA conference agreement.

National Academies Science, Technology, and Security Roundtable

Sec. 6484 of H.R. 4350 directs the National Academies to convene an ad-hoc committee to study and provide recommendations on the feasibility of establishing an independent, non-profit entity to enable informed, proactive, and unbiased risk assessment for the U.S. research enterprise. A study to assess the viability of a non-biased, independent entity which can conduct risk analyses of global research and development trends, market analysis, and risk assessment for day-to-day activities such as collaboration, travel, and hiring would be tremendously useful as the research community grapples with how to assess risk of certain engagements and related activities.

Sec. 6484 of H.R. 4350 is similar to Sec. 2302 in the Senate-passed U.S. Innovation and Competition Act (S. 1260) in its goal to create an independent, non-profit to help the research community better assess risk and identify improper or illegal efforts by foreign actors seeking to exploit U.S. research investments. We are supportive of both provisions but urge the House and Senate to agree to one approach rather than two separate efforts.

Malign Foreign Talent Recruitment Program Prohibition

Sec. 6499E of H.R. 4350 prohibits malign talent recruitment program participants from receiving research and development awards from any federal research agency. We appreciate the willingness of the House Armed Services Committee to narrowly tailor the definition of “malign foreign talent program” and to limit the scope to “foreign countries of concern.” The provision preserves critical international collaborations and activities including making scholarly presentations, publishing written materials regarding scientific information not otherwise controlled under current law, and participation in international conferences and other exchanges that involve open and reciprocal exchange of scientific information. We know that similar provisions exist in the Senate USICA (S. 1260) and the House NSF for the Future Act (H.R. 2225).

We appreciate the willingness of the House Armed Services Committee to appropriately define Sec. 6499E of H.R. 4350 on malign foreign talent recruitment program participants and urge that this same approach be adopted in any final legislative provision agreed to on this matter either in the NDAA or the USICA/NSF For the Future conference agreement.

Cybersecurity Provisions

Report on Cybersecurity Maturity Model Certification Effects on Small Businesses

Sec. 848 of H.R. 4350 requires the Secretary of Defense to submit a report on the effects of the Cybersecurity Maturity Model Certification (CMMC) framework on small businesses. In addition to small businesses, colleges and universities are also required to participate and comply with the new cybersecurity requirements as part of the CMMC framework. The additional challenges, burdens, and costs associated with CMMC compliance for colleges and universities is causing some of them to rethink their ability to continue to perform important research on behalf of the DOD. Therefore, an assessment of the effects CMMC compliance will have on colleges and universities, as well as small businesses, would be mutually beneficial.

We recommend that language be added to Sec. 848 of H.R. 4350 to include colleges and universities as part of the report on the effects of the CMMC in the final FY22 NDAA conference agreement.

Feasibility study regarding establishment within the Department of Defense a designated central office, headed by a senior department official, responsible for overseeing all academic engagement programs focusing on creating cyber talent across the Department

Sec. 1531 of H.R. 4350 directs the Secretary of Defense to conduct a feasibility study on establishing a central program office responsible for overseeing all academic engagement programs focusing on creating cyber

talent across DOD. Colleges and universities engage with DOD primarily through the Basic Research Office, which does not have authority over cybersecurity matters. This provision would help increase collaboration between the academic community and DOD and meet cyber talent needs.

We urge you to include Sec. 1531 of H.R. 4350 in the final FY22 NDAA conference agreement.

New Cyber Incident Reporting Requirements

Senator Peters' Amendment #4799 to the Senate NDAA creates a new Cyber Incident Reporting Act (CIRA), which requires federal contractors, including many colleges and universities, to report cybersecurity incidents. While the academic community understands the need to ensure the federal government is aware of dangerous threats, the definitions of an incident need to be more specific to ensure that federal contractors are not spending precious resources on unnecessary reporting. Therefore, we recommend that Congress tighten the definitions for a cyber incident and ensure the rulemaking process provides that the Department of Homeland Security receives feedback from every stakeholder impacted by this provision, including institutions of higher education.

Should CIRA be included in the NDAA, we ask that accompanying report language be provided directing the Cybersecurity and Infrastructure Security Agency (CISA) to define what specifically constitutes a "covered cyber incident" that entities will have to report and that the required reporting is narrowed to only those incidents which pose a clear national or economic security risk.

Support Student Service Members and Veterans

Report on Implementation of Army IgnitED program

Cardin amendment #4096 to S. 2792 requires the Secretary of the Army to submit a report on the status of the Army IgnitED program of the Army's Tuition Assistance Program and a timeline for resolving ongoing issues with the system. Ongoing implementation issues with the Army's new system, ArmyIgnitED, have caused significant challenges for Army servicemembers using their tuition assistance benefits at colleges and universities across the country.

We urge you to include Cardin amendment #4096 of S. 2792 in the final FY22 NDAA conference agreement.

Provisions of Concern

Department of Defense Contractor Professional Training Material Disclosure Requirements

Sec. 818 of S. 2792 would require expansive new disclosures of internal training materials at both public and private entities leading to costly and burdensome compliance with no clear purpose. Leaders of our country's business, education, and military communities fundamentally agree that promoting and enabling diversity and inclusion are essential to the long-term strength, economic competitiveness, and security of our nation. A new costly and burdensome compliance program does not advance national security but instead takes us backwards.

We strongly urge you to oppose inclusion of Sec. 818 of S. 2792 in the final FY22 NDAA conference agreement

House Intelligence Authorization Act for FY 2022 (H.R. 5412) DOD Pilot Program for Security Vetting of Certain Individuals (Section 701)

The House Intel Authorization Bill (H.R. 5412) as reported out of committee calls for a new pilot program to vet researchers working on non-classified research. No similar provision is included in The Senate version of the Intelligence Authorization Act (S. 2010) which Senator Warner offered as amendment #4616 to the

Senate NDAA. Universities have been taking steps to address research security concerns on our campuses and support federal efforts to ensure research security at our universities. We have also supported past provisions in the FY21 NDAA which require full disclosure by federal award recipients of outside funding sources (Section 223) and of the work being done by the administration to implement additional agency research requirements through National Security Presidential Memorandum 33. We are concerned that this additional vetting program for individuals participating in Defense research is duplicative of other federal efforts and could have significant adverse impacts in the willingness of university researchers to participate in DOD fundamental research, and thus AAU and APLU are opposed to this language. At the very least, if this pilot were to proceed, we would strongly prefer the Office of Basic Research and RDT&E to be involved in overseeing it.

We urge the Section 701 of the House Intelligence Authorization Bill not be included in the final FY22 NDAA conference agreement.

As negotiations continue towards a final conference agreement, we thank you for taking our recommendations into consideration. Please do not hesitate to contact [Toby Smith](#) at AAU, or [Deborah Altenburg](#) at APLU, if we can be of any assistance as you work to finalize the legislation.

Sincerely,



Barbara R. Snyder
President
Association of American Universities



Peter McPherson
President
Association of Public and Land-grant Universities