

WIN WITHOUT WAR



August 19, 2019

Dear Colleague,

I'm writing to share Win Without War's priorities as the House and Senate conference H.R. 2500 and S.1790, the House and Senate versions of the Fiscal Year 2020 National Defense Authorization Act.

We are hopeful that the final conferenced bill includes the following provisions on our priority issues (top priorities are noted and highlighted):

Preventing a U.S. attack on Iran and supporting U.S. diplomacy with Iran

For more than two years, the United States has taken one reckless action after another—from violating the Joint Comprehensive Plan of Action and imposing crippling economic sanctions that hurt ordinary Iranians to taking the unprecedented step of designating parts of Iran's military as terrorists and sanctioning Iran's top diplomat. All of these actions put us one step closer to another disastrous war of choice in the Middle East that analysts say would dwarf the cost of the 2003 Iraq invasion in both blood and treasure.

Relevant sections in H.R. 2500

- **Top Win Without War priority:** Sec. 1229 would simply prevent the administration from starting an unauthorized war with Iran, consistent with the Constitution and the War Powers Resolution of 1973. It also makes clear that neither the 2001 or 2002 authorizations for use of military force provide legal authority for a U.S. war against Iran. A similar amendment to S.1790 received bipartisan majority support while failing to meet a 60-vote threshold for passage.
- Sec. 1228 recognizes the importance of off-ramps to war; it would require a report on deconfliction channels between the United States and Iran.

Ending all U.S. support for and assistance to the Saudi-led coalition in Yemen

The United States must end all political and military support for Saudi Arabia and the United Arab Emirates (UAE)'s military intervention in Yemen. The Saudi/Emirati coalition's destruction of schools and hospitals, indiscriminate targeting of civilians, and use of starvation as a weapon of war has helped make Yemen home to the world's largest humanitarian crisis. Already Congress has voted numerous times to end arms sales and military assistance to the coalition, forcing four vetoes by the president.

Relevant sections in H.R. 2500

- **Top Win Without War priority:** Sec. 1099X. would prohibit the export of air to ground munitions, related components and parts of such munitions, and related services to Saudi Arabia

and the United Arab Emirates. This would capture precision-guided munitions, which have been used by the Saudi/Emirati-led military coalition to kill and injure thousands of civilians in Yemen with impunity.

- **Top Win Without War priority:** Sec. 1270H. would prohibit U.S. military assistance and support for the military campaign against the Houthis, including logistics and intelligence sharing considered indispensable for coalition airstrikes. Former CIA agent Bruce Riedel, Senior Fellow at the Brookings Institution, has argued that the coalition's aerial bombing campaign in Yemen "will be grounded" if the United States "halts the flow of logistics."
- Sec. 1270F would prevent the State Department from using the Special Defense Acquisition Fund to pre-order weapons to speed up their delivery to Saudi Arabia or the UAE for use against the Houthis in Yemen.
- Sec. 1270N would enact a two-year prohibition on the U.S. military for in-flight refueling to non-United States aircraft that engage in hostilities in the ongoing civil war in Yemen. This section would codify the Department of Defense's decision in November 2018 to end this practice.
- Sec. 1270M would require a report on Saudi/Emirati-led coalition (SELC) airstrikes in Yemen leading to civilian casualties. International agencies and non-governmental organizations report that the SELC is responsible for the majority of civilian casualties in the current conflict.
- Sec. 1270G would prohibit the use of emergency authorities for the sale or transfer of defense articles and services to Saudi Arabia and the UAE. This section, which largely mirrors bipartisan standalone legislation vetoed by President Trump, is important not only for helping to end U.S. complicity in the war in Yemen, but also for Congress in reasserting its constitutional prerogative after Trump took the unprecedented step of declaring a nonexistent emergency to bypass Congress and ram through arms sales to the coalition.

Relevant sections in S.1790.

- Sec. 1288 would require a report on expenses incurred for in-flight refueling of Saudi/Emirati-led coalition (SELC) aircraft conducting missions relating to civil war in Yemen. In December 2018, it was reported that the SELC had failed to reimburse the United States for in-flight refueling from March 2015 to November 2018, to the tune of at least \$331 million dollars. This report would require vital information related to the extent and costs of U.S. support for the SELC and the SELC's practices during this time period. (We encourage the report(s) to be written in an unclassified form and made available to the public.)

Preventing discrimination by the military and militarization of the border

The U.S. military has a responsibility to uphold the civil rights of those who sign up to serve and pay the ultimate price in defense of the United States. Congress also must work to prevent further militarization of the U.S. southern border.

Relevant sections in H.R. 2500

- **Top Win Without War priority:** Sec. 530B would safeguard the right of all people, regardless of race, religion, national origin, or sex – including sexual orientation or gender identity – to serve openly in the Armed Forces, so long as they meet gender-neutral standards. This section would block President Trump's April 2019 cruel and hateful executive order banning military

service by transgender people by preventing the military from using factors related to gender identity when making recruitment and retention decisions.

- **Top Win Without War priority:** Sec. 1046 would prohibit the president from using any Department of Defense funds for the construction of his inhumane and hateful border wall.
- Sec. 1044 would require certifications by the Secretary of Defense in order to permit DoD assistance to U.S. Customs and Border Protection and puts in place reporting requirements regarding deployed troops to the southern border.
- Sec. 530G would prohibit involuntary separation or deportation of members of the Armed Forces who are DACA recipients or have temporary protected status.
- Sec. 530F would direct the Department of Defense (DOD) to notify the Department of Homeland Security (DHS) when a non-citizen servicemember is honorably discharged from the U.S. Armed Forces so that such information is available to be considered before Immigration and Customs Enforcement (ICE) moves forward with deportation proceedings.
- Sec. 530H would require the Department of Defense to review discharge characterizations and change from dishonorable to honorable any member of the U.S. Armed Forces whose characterization is based on sexual orientation.
- Sec. 530C would require a feasibility study on Department of Defense using two Federal Bureau of Investigation databases to screen potential enlistees for ties to white nationalist organizations.
- Sec. 899C: would prohibit the Department of Defense from contracting with companies that do not have a sexual harassment policy.

Stopping new nuclear weapons and supporting nuclear arms control

The Trump administration is pushing for a dangerous new “low-yield” warhead on a submarine-launched ballistic missile – a nuclear weapon considered by the administration to be a war-fighting tool. This weapon, the recent move to end the Intermediate Range Nuclear Forces Treaty, and reports that the administration does not want to take the commonsense option of extending the New Strategic Arms Reduction Treaty (New START) will fuel the worsening nuclear arms race and put us closer to the brink of nuclear war.

Relevant sections in H.R. 2500

- **Top Win Without War priority:** Sec. 1646 would prohibit funds from being used for the deployment of the unnecessary and dangerous W76-2 low-yield warhead and would eliminate the \$19.6 million DoD request and \$10 million NNSA request for the program.
- Sec. 1270J would prohibit the use of funds for shorter- or intermediate-range ground launched ballistic or cruise missile systems, ostensibly blunting the immediate damage of the administration’s withdrawal from the INF Treaty.
- Sec. 1231 would prohibit the use of funds to suspend, terminate, or withdraw the United States from the Open Skies Treaty, a treaty that allows for verification by one country of another country’s compliance with arms control treaties through flights over the territory of another country.
- Sec. 1240A. would prevent funds from being used to withdraw the United States from the New START Treaty. Without New START, there will be no bilateral arms control agreements in place to prevent an unconstrained arms race between the United States and Russia, and the U.S. would lose essential intelligence about Russia’s strategic forces.

- Sec. 1099Y would require studies regarding potential cost savings with respect to the nuclear security enterprise and force structure from the Comptroller General, federally-funded research and development centers, a nongovernmental think tank, and the CBO.
- Sec. 1671 would require the Ground-based Midcourse Defense System to include a minimum of one test per year of the deployed system against threat-representative targets, including countermeasures.
- Sec. 1672 would require a report on the impacts of U.S. missile defense, including whether its benefits are undermined or counterbalanced by reactions of potential adversaries and their effectiveness in deterring adversaries' development of ballistic missiles.
- Sec. 3123 would authorize \$10 million to be available to develop and prepare a monitoring and verification program related to the phased denuclearization of North Korea, in coordination with relevant international partners and organizations.
- Sec. 3114 would amend a previous requirement for the National Nuclear Security Administration to produce 80 plutonium pits per year by 2027 and instead prioritize production of 30 pits per year.

Ending the 'forever war'

Congress must repeal the 2001 and 2002 authorizations for the use of military force (AUMF) to eliminate the president's blank check for endless war. Congress must also reorient U.S. counterterrorism strategy away from a military-first approach that has only exacerbated the security challenge posed by violent groups that perpetrate terrorism and instead invest in peacebuilding, development, and diplomacy to address this challenge.

Relevant sections in H.R. 2500

- **Top Win Without War Priority:** Sec. 1270W would repeal the Authorization for Use of Military Force Against Iraq Resolution of 2002 (Public Law 107-243; 50 USC. 1541). Repealing the 2002 Iraq War AUMF would not impact any existing military operations because it no longer serves an operational purpose. Leaving the 2002 AUMF in effect runs the risk that it could be utilized by the executive branch for military missions Congress never intended to authorize.
- Sec. 1099W would express the sense of Congress that the 2001 AUMF has been utilized well beyond the scope that Congress intended, that it has served a blank check for any President to wage war at any time and any place, and that any new authorization for the use of military force to replace the 2001 AUMF should include a sunset clause, a clear and specific expression of objectives, targets, and geographic scope, and reporting requirements.
- Section 1033 would bar the use of funds to transfer new detainees to Guantanamo Bay Detention Camp, a facility that symbolizes the United States failed response to international terrorism.

Relevant sections in S. 1790

- Sec. 1025 would allow for the transfer of detainees at Guantanamo Bay Detention Center to the United States for certain medical treatment, an essential need for the aging detainee population that may not be able to be treated for complex medical conditions at the base.

- Sec. 1026 would create a chief medical officer at Guantanamo Bay Detention Center.

In addition, Win Without War supports the retention of the following provisions that would help reform U.S. foreign, defense, and national security policy:

Ensuring Congressional oversight of the use of force

Relevant sections in H.R. 2500

- Sec. 1270U would require reporting to Congress when U.S. forces are involved in hostilities if the President has not determined that the involvement is authorized by Congress and has not reported it pursuant to the War Powers Resolution.
- Sec. 1270V would improve congressional oversight of the 2001 Authorization for Use of Military Force (AUMF) by requiring the President to submit reports and provide briefings on actions related to that authority.

Reforming arms sales and security assistance

Relevant sections in H.R. 2500

- Sec. 1270 would preserve Congressional review of arms export licenses by restricting the President's emergency export authority under the Arms Export Control Act to situations in which defense items are transferred only within 60 days of an emergency determination and to prevent the use of an emergency determination to approve overseas manufacturing or co-production of defense items. This provision is similar to S. 1945 that was reportedly favorably by the Senate Foreign Relations Committee.
- Secs. 1291-1295 would limit military to military cooperation between the US military and the Burma Army, applies sanctions to perpetrators of human rights abuses, including against the Rohingya, encourages reform in the military-dominated Burmese gemstone sector, calls for a determination of crimes perpetrated against the Rohingya, and authorizes support for the preservation of evidence and transitional justice efforts.
- Sec. 1270T would prohibit the use of funds to establish any permanent military base or installation in Somalia.
- Secs. 1281-1287 would place limitations on the issuance of non-recurring cost waivers to certain Foreign Military Sales customers. Requires Defense and State Department reports on reforms on various aspects of the Foreign Military Sales enterprise.
- Sec. 1080 would require the Secretaries of Defense and State to report on human rights of Brazil's security forces in light of potential increased security cooperation.

Demanding accountability for human rights violations and war crimes

Relevant sections in H.R. 2500

- Sec. 899K would require contractors performing DoD contracts in foreign countries to report possible cases of gross violations of human rights.
- Secs. 1296-1296B would require an ODNI determination of parties responsible for the torture, murder, and dismemberment of Washington Post journalist Jamal Khashoggi, imposes visa sanctions, and provides for a waiver if Saudi Arabia meets certain conditions.
- Sec. 1087 would improve current law related to policies and planning in military operations to ensure civilian protection, including procedures for incidents involving civilian casualties.

Requiring Pentagon budgeting reforms and transparency

Relevant sections in H.R. 2500

- Sec. 899G would reestablish the Commission on Wartime Contracting and requires it to examine federal agency contracting funded by OCO; federal agency contracting for the logistical support of coalition forces operating under the 2001 or 2002 AUMF; and federal agency contracting for the performance of security functions in countries where coalition forces are operating under the 2001 or 2002 AUMF.
- Sec. 1079 would require reporting on financial costs and national security benefits for overseas military operations, including permanent military installations and bases.
- Sec. 899L would task the Inspector General of the Department of Defense to analyze all contracts and task orders that provide private security firms access to U.S. theaters of military operations in order to compile a report that will inform Congress about the size of the contracting force; the total value of the contracts; the number of persons operating on the contracts that have been wounded or killed; and the disciplinary actions that have been taken against individual contractors.
- Sec. 609 would require the Defense Department to submit to Congress annual reports on employment or compensation of retired general or flag officers by foreign governments for emoluments clause purposes.

Relevant sections in H.R. 2500

- Sec. 1255 would require a report the distribution of the U.S. forces in the Indo-Pacific region, including in Okinawa, Guam, Hawaii, Australia, and elsewhere.

Supporting peace agreements

Relevant sections in H.R. 2500

- Sec. 1218 would require the Secretary of Defense, in coordination with the Secretary of State, to ensure the meaningful inclusion of Afghan women in peace negotiations.
- Sec. 1250K would express a Sense of Congress that diplomacy is the best option for North Korea as a military confrontation would pose unacceptable risks, and the US should pursue a sustained and credible diplomatic process to achieve the denuclearization of North Korea and an end to the 69-year-long Korean War.

Taking action on climate change

Relevant sections in H.R. 2500

- Sec. 322 would mandate an annual update of new climate change data from requisite Federal agencies be made available to the Secretary of Defense for the purpose of updating the climate vulnerability tool.
- Sec. 328 would require the Department of Defense to specify climate-related mitigation and recovery costs in its annual budget submission to Congress.
- Sec. 324 would codify President Obama's Executive Order 13653, which required all Federal agencies, including DoD, to identify and seek to remove barriers that discourage investments to increase resiliency to climate change.

Preventing firearm proliferation and curbing gun violence

Relevant sections in H.R. 2500

- Sec. 1050 would prohibit the President from removing items from Categories 1-3 of the United States Munitions List, whose effect would be to stop the transfer of firearms export licensing and oversight from the State Department to the Commerce Department.
- Sec. 550 F would codify a DOD policy to report to the National Instant Criminal Background Check System (NICS) servicemembers who are prohibited from purchasing firearms. Requires DOD to study the feasibility of creating a database of military protective orders issued in response to domestic violence and the feasibility for reporting such MPOs to NICS.

Thank you for taking these recommendations into consideration. Please don't hesitate to contact me should you have any questions.

Best regards,
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