June 8, 2020

The Honorable James Inhofe
Chairman
Senate Armed Services Committee
228 Russell Senate Building
Washington, D.C. 20510

The Honorable Jack Reed
Ranking Member
Senate Armed Services Committee
228 Russell Senate Building
Washington, D.C. 20510

Re: Markup of FY2021 National Defense Authorization Act

Dear Chairman Inhofe and Ranking Member Reed:

On behalf of America’s 181 Defense Credit Unions and over 25 million members, I am writing regarding this week’s markup of the National Defense Authorization Act (NDAA) for FY2021. As you consider this important legislation, we once again urge the committee to strike any provisions that would alter the status quo and force the Department of Defense (DoD) to treat banks and credit unions as equal entities in terms of obtaining no-cost land leases and waiver of utilities and service costs for the space they occupy on military installations. The Defense Credit Union Council advocates for all Defense Credit Unions located on United States military installations worldwide.

As you know, DoD has the discretionary authority to waive all costs for Defense Credit Union land leases along with administrative fees and logistical costs provided that certain regulatory standards are met. This authority was granted after several years of discussion with DoD and through the enactment of an amendment to the Federal Credit Union Act in 2006. This waiver is only open to Defense Credit Unions when at least 95 percent of the membership served by the allotment of space or the facility built on the leased land is composed of individuals who are, or who were at the time of admission into the credit union, military personnel or federal employees, or members of their family.

In return, Defense Credit Unions are able to continually provide quality financial products and services along with stronger community support as not-for-profit, member-owned financial institutions. Savings from this discretionary waiver are directly passed on to the members and their military communities as there are no third-party dividends limiting this support. Defense Credit Unions understand this expectation and are aware that DoD is not required to waive any costs.

It is important to point out that banks already have a means to pursue the same nominal cost leases via 10 U.S.C. § 2667. The FY2001 NDAA (P.L. 106-398) gave DoD the authority to accept “in-kind consideration” for leases on military property, including “provision of such other services relating to activities that will occur on the leased property that the Secretary concerned considers appropriate.” In fact, I have participated in several joint meetings at the Under Secretary of Defense-level where...
banks were continually advised of this provision. Unfortunately, banks choose to ignore this avenue in making decisions to leave the installation despite making record profits. This choice is very unfortunate and part of a growing pattern of putting more profit over continued service.

Last year, the bank lobby advocated for a proposed amendment in the FY2020 NDAA that would have required DoD to treat “for-profit” banks as “not-for-profit” institutions in order to obtain no-cost land leases as a condition for staying on the installation. If DoD did not grant the banker’s wishes, then the legislation would have required DoD to charge credit unions the same as banks under the guise of equality. Yet, there was nothing in last year’s proposed amendment that would have required banks to return any of these savings to their customers. Thus, the proposal was unfair to our military as potential savings would be put into the pocketbooks of bank shareholders versus our military, their families, and the communities in which they live. Fortunately, several members of Congress expressed concerns about this arrangement and the amendment was subsequently rejected.

The Defense Credit Union Council recognizes the important services that credit unions and banks provide to consumers on military installations. These well-regulated financial institutions offer choices in financial products and services and guard against predatory lending practices. However, DCUC would be very concerned with any legislative language that benefits banks by going beyond DoD’s discretionary authority in this area; altering the status quo and thus putting Defense Credit Unions at a disadvantage.

Additionally, this issue becomes more complex as other “profit-centered” entities along with DoD contractors pursue the same benefit. It becomes a slippery slope. Thus, we urge the Senate Armed Services committee to study the full impact of any specific statutory language which the banks seek to establish. All stakeholders, including the DoD, need to agree on a path forward that is truly in the best interests of our armed forces.

On behalf of America’s Defense Credit Unions and their 25 million members, thank you for your consideration.

Sincerely,

Anthony R. Hernandez

cc: Senate Armed Services Subcommittee on Personnel