

41 Senators and 207 Representatives Seeking FY21 Animal Welfare Funding/Language

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Sen. Kyrsten Sinema (D)
Rep. Ruben Gallego (D)
Rep. Raúl M. Grijalva (D)
Rep. Greg Stanton (D)
Rep. David Schweikert (R)

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Sen. Dianne Feinstein (D)
Sen. Kamala D. Harris (D)
Rep. Pete Aguilar (D)*
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Rep. Ami Bera, M.D. (D)
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Rep. Salud O. Carbajal (D)
Rep. Tony Cárdenas (D)
Rep. Judy Chu (D)
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Rep. J. Luis Correa (D)
Rep. Jim Costa (D)
Rep. Susan Davis (D)
Rep. Mark DeSaulnier (D)
Rep. Anna G. Eshoo (D)
Rep. Jimmy Gomez (D)
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Rep. Ro Khanna (D)
Rep. Barbara Lee (D)
Rep. Mike Levin (D)
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Rep. Zoe Lofgren (D)
Rep. Alan Lowenthal (D)
Rep. Doris Matsui (D)
Rep. Jerry McNerney (D)
Rep. Grace Napolitano (D)
Rep. Jimmy Panetta (D)
Rep. Scott H. Peters (D)
Rep. Katie Porter (D)
Rep. Harley Rouda (D)
Rep. Lucille Roybal-Allard (D)*
Rep. Raul Ruiz (D)
Rep. Linda T. Sánchez (D)
Rep. Adam B. Schiff (D)
Rep. Brad Sherman (D)
Rep. Jackie Speier (D)
Rep. Eric Swalwell (D)
Rep. Mark Takano (D)
Rep. Norma J. Torres (D)*
Rep. Juan Vargas (D)

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Rep. Jason Crow (D)
Rep. Diana DeGette (D)
Rep. Joe Neguse (D)
Rep. Ed Perlmutter (D)*

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Sen. Christopher S. Murphy (D)
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Rep. Rosa DeLauro (D)
Rep. Jahana Hayes (D)
Rep. Jim Himes (D)
Rep. John B. Larson (D)

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Sen. Christopher A. Coons (D)
Rep. Lisa Blunt Rochester (D)

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Rep. Al Lawson (D)
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Rep. Stephanie Murphy (D)
Rep. Donna Shalala (D)
Rep. Darren Soto (D)
Rep. Michael Waltz (R)
Rep. Debbie Wasserman Schultz (D)
Rep. Frederica Wilson (D)

Georgia

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Rep. John Lewis (D)
Rep. Lucy McBath (D)

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Sen. Brian Schatz (D)
Rep. Tulsi Gabbard (D)

Illinois

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Sen. Richard J. Durbin (D)
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Rep. Haley Stevens (D)

* Included animal welfare items among individual requests to Agriculture Appropriations Subcommittee.

41 Senators and 207 Representatives Seeking FY21 Animal Welfare Funding/Language

Minnesota

Sen. Amy Klobuchar (D)
Sen. Tina Smith (D)
Rep. Ilhan Omar (D)
Rep. Collin Peterson (D)

Missouri

Rep. William Lacy Clay (D)

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Rep. Susan Wild (D)

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Sen. Sheldon Whitehouse (D)
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Rep. Adam Smith (D)*
Rep. Kim Schrier

Wisconsin

Sen. Tammy Baldwin (D)
Rep. Ron Kind (D)
Rep. Mark Pocan (D)*

* Included animal welfare items among individual requests to Agriculture Appropriations Subcommittee.

Congress of the United States
Washington, DC 20515

March 13, 2020

The Honorable Sanford Bishop
Chairman
Subcommittee on Agriculture, Rural
Development, FDA, & Related Agencies
2362-A Rayburn Building
Washington, D.C. 20515

The Honorable Jeff Fortenberry
Ranking Member
Subcommittee on Agriculture, Rural
Development, FDA, & Related Agencies
1016 Longworth Building
Washington, D.C. 20515

Dear Chairman Bishop and Ranking Member Fortenberry:

As you consider Fiscal Year (FY) 2021 appropriations, we write to thank you for your outstanding past support for enforcement of key U.S. Department of Agriculture (USDA) animal welfare laws and to urge you to sustain this effort in FY 2021. Your leadership is crucial in helping to protect the welfare of millions of animals across the country.

As you know, enforcement of animal welfare laws also benefits people by decreasing: sale of unhealthy pets by commercial breeders, commonly referred to as "puppy mills;" laboratory conditions that may impair the scientific integrity of animal based research; risks of disease transmission from, and dangerous encounters with, wild animals in public exhibition; injuries and deaths of pets on commercial airline flights due to mishandling and exposure to adverse environmental conditions; food safety risks to consumers from sick animals who can transmit illness; injuries to slaughterhouse workers from suffering animals; and orchestrated dogfights and cockfights that often involve illegal gambling, drug trafficking, and human violence, and can contribute to the spread of costly illnesses such as virulent Newcastle disease and bird flu. In order to continue the important work made possible by the Committee's prior support, we request the following for FY 2021:

Animal and Plant Health Inspection Service / Animal Welfare Act Enforcement

Summary: We request language to address Animal Welfare Act (AWA) enforcement at USDA.

Background: The AWA is the chief federal law for the protection of animals. USDA's Animal Care division is responsible for inspections of 12,851 sites, including commercial breeding facilities, laboratories, zoos, circuses, and airlines, to ensure compliance with AWA standards. USDA's Office of General Counsel (OGC) and Investigative and Enforcement Services (IES) play essential roles in enforcement. We are very concerned that USDA is treating the regulated industries as customers, giving deference to those who can't comply with the AWA's modest requirements while giving short shrift to the animals and the taxpaying public.

For example, in April 2018, USDA undertook a "pilot program" in which it alerted some facilities prior to AWA inspections. Such prenotification allows facilities to hide problems just before an inspector's arrival. While this pilot program was short-lived, there is no guarantee that it won't be resurrected or that some licensees aren't still getting advance warning, so the use of announced inspections must be prohibited. There has been a precipitous decline in AWA enforcement activity over the past three years, with far fewer cases initiated, warnings issued, and official complaints filed, including a 65 percent drop in citations and a 92 percent drop in enforcement cases from 2016 to 2018. This decline is not due to facilities suddenly complying with the law – to illustrate, several preventable exhibitor incidents in which wild animals hurt children, other animals, and themselves resulted in no citations. Inspectors are being advised not to cite noncompliances. According to a May 2018 USDA Tech Note, multiple incidents directly affecting animal health and welfare are no longer to be included on inspection reports if certain criteria are met. This document explains how facilities can self-report to avoid getting citations on inspection reports. The USDA also continues to use "Teachable Moments" as a means of avoiding

documentation of violations on inspection reports, despite committee report language directing it to stop this deceptive practice.

Inspection standards and procedures have been dangerously weakened, such as no longer requiring that a written program of veterinary care be signed by an actual veterinarian, permitting veterinarians to diagnose and treat by phone without seeing their animal patients, and no longer requiring that animals be killed according to the AVMA's Guidelines for Euthanasia of Animals. Inspection reports also show a pattern of downplaying problems; for example, ill and injured animals were listed as "treated" when in fact they had been euthanized, and a licensee who denied access to her property for seven consecutive inspection attempts during normal business hours over a two year period received only a single citation while others are not being cited at all. Focusing primarily on educating those in the regulated community rather than on enforcement is a strategy that undermines animal welfare. As explained by USDA's Inspector General in a 2010 Office of the Inspector General (OIG) audit of the Animal Care program: "The agency believed that compliance achieved through education and cooperation would result in long-term dealer compliance and, accordingly, it chose to take little or no enforcement action against most violators. However,.... relying heavily on education for serious or repeat violators – without an appropriate level of enforcement – weakened the agency's ability to protect the animals."

Also, following recommendations in that 2010 OIG audit regarding dog breeders and strong encouragement by Members of Congress and the public, the USDA issued a final rule in 2013 intended to close a loophole that allowed breeders to sell puppies to customers sight-unseen over the Internet without a USDA license. But since that time, enforcement of online dealers has been lackadaisical and many online operations continue to sell puppies without the necessary USDA licensing.

Requested Bill Language: We hope you will include report language calling attention to these concerns and pressing Animal Care, OGC, and IES to conduct robust oversight and enforcement of this vital law. We also specifically request the following bill language:

"The Secretary shall ensure that each noncompliance observed by a USDA inspector under the Animal Welfare Act, 7 U.S.C. Sections 2131-2159, is documented on an inspection report. None of the funds made available by this Act may be used to conduct announced compliance inspections under the Animal Welfare Act."

APHIS / Horse Protection Act Enforcement

Summary: We request \$2,000,000 and bill language to direct stronger enforcement of the Horse Protection Act (HPA).

Background: Congress enacted the HPA in 1970 to outlaw the abusive practice of "soring," in which unscrupulous trainers deliberately inflict pain on Tennessee Walking Horses' hooves and legs to create an artificially exaggerated, high-stepping gait and gain unfair competitive advantage at horse shows. Examples of soring include applying caustic chemicals, using plastic wrap and tight bandages to "cook" those chemicals deep into the horse's flesh for days, attaching heavy chains to strike against the sore legs and heavy, stacked horseshoes that force the horse's legs into unnatural angles, cutting the hooves down to expose the live tissue, jamming hard objects into the sensitive areas of the feet, and using salicylic acid or other painful substances to slough off scarred tissue or numbing agents in an attempt to disguise the sored areas. An October 2010 OIG report documented serious conflicts of interest and other significant problems with the industry self-monitoring system of Horse Industry Organizations (HIOs) on which the APHIS inspection program still relies.

Many horse show industry, veterinary, and animal protection groups have called for an end to this flawed system of industry self-policing, and USDA announced final regulations to accomplish this along with other needed reforms to end soring (https://www.aphis.usda.gov/newsroom/federal_register/hpa-rule.pdf). These rules [Docket No. APHIS-2011-0009] received more than 100,000 public comments in support, including bipartisan letters signed by 182 Representatives and 42 Senators. Unfortunately, these regulations were withdrawn. Since

then, it has been reported that USDA officials have stated their view that the HIOs have primary responsibility to enforce the HPA, not the agency.

Requested Funding: We request \$2,000,000 in the bill to permit stronger enforcement of the HPA.

Requested Report Language: We hope you will include the following language:

“The Committee provides \$2,000,000 for enforcement of the Horse Protection Act of 1970, as amended (15 U.S.C. 1831), and reminds the Secretary that Congress granted the agency primary responsibility to enforce this law.”

Requested Bill Language: We hope you will include the following language:

“The Secretary shall reinstate and publish the final rule, “Horse Protection; Licensing of Designated Qualified Persons and Other Amendments” [Docket No. APHIS-2011-0009], as it was finalized and displayed in advance public notice in the Federal Register on January 19, 2017, with effective dates adjusted to reflect the delay in implementation.”

USDA Data Purge / Online Access to HPA and AWA Records

Summary: We request bill language clarifying specific details for USDA posting records under the HPA and AWA.

Background: We very much appreciated Sec. 788 of the FY 2020 omnibus, which directed APHIS to resume online posting hereafter of all inspection reports and enforcement records under the HPA and the AWA, in their entirety without redactions that obscure the identities of horse sorers, puppy mills, roadside zoos, and others cited for violations. The taxpaying public that finances USDA enforcement must have searchable access to the compliance records of regulated entities allowing analysis and comparison of data and holding the USDA accountable. Public access to this information can guide consumer decision-making and plays an important role in deterring regulated entities from violating the law and monitoring whether the USDA is complying with congressional mandates and OIG recommendations. Access to these records underpins state and local laws meant to protect animals and consumers, such as the laws in eight states prohibiting sale of dogs from breeding operations with a history of serious AWA violations.

Transparency is also in the interest of responsible industry stakeholders. As noted by Speaking of Research, a pro-animal research organization opposing the USDA purge, “[w]hen information is hidden, particularly where it was once available...the public wonders what is being hidden and why, and researchers must devote even more resources to combatting the public perception that they are not transparent.” Posting these records is akin to police departments posting arrest reports, food safety agencies posting code violations, and professional licensing boards posting alleged violations of professional misconduct.

In the overwhelming majority of instances of AWA and HPA non-compliances observed by a USDA inspector when APHIS takes any enforcement action, the agency’s final action is a warning letter or stipulation. In the much rarer cases where APHIS pursues further legal action, it is essential to be able to see the administrative complaint that details alleged violations. These categories of documents, along with consent decrees and court orders, had been posted on the agency’s website prior to the abrupt removal of records in February 2017, and the public deserves renewed access to all of these documents.

Requested Bill Language: We hope you will include the following language:

“Animal Welfare Act and Horse Protection Act enforcement records that must be made publicly available under Sec. 788(b)(2) of P.L. 116-94 shall include all warning letters, stipulations, and administrative complaints. The searchable databases in Sec. 788(a) and (b) of P.L. 116-94 shall be searchable to at least the same extent as they were on January 30, 2017 in terms of both function and content.”

APHIS / Protecting Animals with Shelter Implementation

Summary: We request \$3,000,000 for grants to provide shelter options for domestic violence survivors with companion animals.

Background: We appreciate that Congress provided \$2 million in FY 2020 to begin implementing Section 12502 of the 2018 Farm Bill (P.L. 115-334), which incorporated the language of the Pet and Women Safety (PAWS) Act to authorize a new grant program to provide emergency and transitional shelter options for domestic violence survivors with companion animals. Research shows that abusers often threaten or inflict violence on pets as a way to intimidate or exert control over their partners and prevent them from leaving. This program will ensure that more domestic violence service providers are able to accommodate pets or arrange for pet shelter.

Requested Funding: We request \$3,000,000 in the bill to continue implementing the PAWS grant program as authorized in Section 12502 of P.L. 115-334.

Requested Report Language: We hope you will include the following language:

“The Committee directs the Secretary of Agriculture to continue coordinating with the Departments of Justice, Housing and Urban Development, and Health and Human Services to efficiently implement the grant program for providing emergency and transitional shelter options for domestic violence survivors with companion animals.”

Agricultural Research Service / Animal Welfare for Farm Animals Used in Agricultural Research

Summary: We request report language to ensure high standards of care for animals used in research at ARS facilities.

Background: A 2015 investigation by the New York Times reported shocking instances of animal mistreatment and neglect associated with experiments conducted on farm animals at an ARS facility, the U.S. Meat Animal Research Center (USMARC), and repeated disregard for objections raised by the Center’s own veterinary staff. We appreciate that the Committee responded by making five percent of the ARS budget for FY 2016 contingent on ARS updating its animal care policies and requiring that all ARS facilities at which animal research is conducted have a fully functioning Institutional Animal Care and Use Committee (IACUC) to ensure compliance with animal welfare standards and principles of scientific integrity. In that and subsequent years, the Committee also provided increased funding to enable APHIS, under an MOU with ARS, to conduct inspections consistent with the AWA at each ARS facility that uses animals in research, and directed APHIS to post its inspections reports online and provide copies to the Committees. The explanatory statement accompanying the FY 2019 omnibus expressed concern about the failure to “report a single specific negative finding by APHIS inspectors, despite the fact that numerous violations have been found involving the death of numerous animals and serious health issues of many more.” The House committee report accompanying the FY20 bill noted that “ARS has not yet submitted the single report discussing all the violations found by APHIS to date that was mandated in the 2019 Act and that the first quarterly report since the 2019 Act was enacted failed to include any discussion of violations found by APHIS and specific actions taken. APHIS is directed to include every violation its inspectors find and never to frustrate the Committee’s oversight activities by using so-called ‘teachable moments’ or other means of not reporting ARS facility violations.”

Requested Report Language: We commend the Committee for its ongoing oversight and request the following report language to ensure ARS facilities' adherence to the AWA, continued APHIS inspections of each ARS facility with animals, and full transparency regarding inspection results and preventive actions:

"The Committee directs ARS to ensure that each of its facilities housing animals is adhering to the standards of the Animal Welfare Act at all times. The Committee further directs APHIS to conduct inspections of all such ARS facilities and post inspection reports online in their entirety without redactions except signatures, and directs ARS to submit quarterly reports that include all violations found by APHIS during that quarter and the specific actions that will be taken to prevent their recurrence."

Food Safety and Inspection Service / Humane Methods of Slaughter Act Enforcement

Summary: We request bill language to ensure strengthened Humane Methods of Slaughter Act (HMSA) enforcement.

Background: We appreciate the Committee's inclusion of FY 2020 bill and committee report language regarding humane slaughter. USDA oversight of humane handling rules for animals at slaughter facilities is vitally important not only for animal welfare but also for food safety. Effective day-to-day enforcement can prevent abuses like those previously documented in undercover investigations and reduce the chance of associated food safety risks and costly recalls of meat and egg products.

Requested Bill Language: We request the following language to ensure HMSA enforcement is strengthened:

"No fewer than 165 full-time equivalent positions shall be employed during fiscal year 2021 for purposes dedicated solely to inspections and enforcement related to the Humane Methods of Slaughter Act. The FSIS shall ensure that inspectors focus their attention on overseeing compliance with humane handling rules for animals as they arrive and are offloaded and handled in ante-mortem holding pens, suspect pens, chutes, stunning areas, and on the processing line. The FSIS shall also ensure that all inspectors receive robust training in humane handling and inspection techniques, including for nonambulatory disabled animals, and it shall resume preparation and posting of humane handling quarterly enforcement reports on its website."

OIG / Animal Fighting Enforcement

Summary: We request language calling for the OIG to strengthen efforts to combat illegal animal fighting activity and to assess USDA's enforcement of key animal welfare laws.

Background: Congress first prohibited most interstate and foreign commerce of animals for fighting in 1976, established felony penalties in 2007, and strengthened the law as part of the 2002, 2008, 2014, and 2018 Farm Bills. We hope the Committee can urge USDA to take seriously its responsibility to enforce this law, working with state and local agencies to complement their efforts and address these barbaric practices, in which animals are drugged to heighten their aggression and forced to keep fighting even after they've suffered grievous injuries.

Dogs bred and trained to fight endanger public safety, and some dogfighters steal pets to use as bait for training their dogs. Cockfighting was linked to an outbreak of Exotic Newcastle Disease in 2002-2003 that cost taxpayers more than \$200 million to contain. In 2018, we saw a return of this virulent disease among backyard "exhibition" chickens, which law enforcement can attest are typically gamefowl used in cockfighting. This outbreak is ongoing and has crossed over to the poultry sector. Cockfighting has also been linked to the death of a number of people in Asia reportedly exposed through the fighting activity to bird flu.

Requested Report Language: We hope you will include the following language:

“The Committee is very concerned about illegal animal fighting activity that subjects animals to terrible cruelty and has the potential to spread illnesses such as virulent Newcastle disease and avian flu. The OIG is encouraged to increase its efforts to combat this illegal activity and to pursue animal fighting cases even if related concerns such as money laundering and illegal weapons have not yet been determined to be at issue in specific cases before an investigation is opened. The Committee also encourages the OIG to audit and investigate USDA enforcement of the Animal Welfare Act, the Horse Protection Act, and the Humane Methods of Slaughter Act to help improve compliance with these important laws.”

National Institute of Food and Agriculture / National Veterinary Medical Services Act

Summary: We request \$9,000,000 for the Veterinary Medicine Loan Repayment Program (VMLRP) (National Veterinary Medical Service Act, P.L. 108-161).

Background: We appreciate that the Committee has recognized the importance of ensuring access to timely veterinary care, which is a core animal welfare and animal health concern. To ensure adequate oversight of humane handling and food safety rules, to defend against bioterrorism, and to address myriad public health issues including those associated with parasites, rabies, chronic wasting disease, and pet overpopulation, VMLRP incentivizes veterinarians to fill vacancies in federally designated veterinary shortage areas across the country. VMLRP offers educational loan assistance in exchange for at least three years of service in a shortage area. For FY 2020, USDA announced 217 veterinary shortage areas in 46 states, up from the 190 shortage areas designated for FY 2019. While not the only factor, student debt is a major contributor to veterinary shortages and can present a challenge when looking to attract veterinarians to practice in rural and underserved areas. In 2019, 81 percent of veterinary school students graduated with debt. While the Committee has been generous in its support of VMLRP, additional funding for the program is needed to close gaps across the country. Each year, VMLRP receives ample applications but veterinary shortage areas remain unfilled due to budget limitations. For example, in FY 2018, USDA was only able to make 74 awards out of 154 applicants. As of the 2019 application cycle, over 1,600 veterinarians have applied for assistance under this program, yet only 596 awards have been made.

Requested Funding: We request \$9,000,000 for the Veterinary Medicine Loan Repayment Program and continued support for the Veterinary Services Grant Program.

APHIS / Animal Welfare Act Facility Disaster Plans

Summary: We request language to ensure that AWA-regulated facilities have disaster plans for the animals in their care.

Background: The USDA proposed a common-sense rule in 2008 requiring facilities regulated under the AWA such as commercial animal dealers, exhibitors, and research labs to have contingency plans to safely evacuate and care for their animals in the event of an emergency. In 2012, USDA published the final rule and it went into effect on January 30, 2013, requiring facilities to have their plans in place by July 29, 2013. However, USDA issued an indefinite stay of implementation of this final rule on July 31, 2013 in response to concerns about very small businesses being covered. Congress then addressed these concerns by including a provision in the 2014 Farm Bill directing USDA to establish a de minimis exemption in the AWA for licensees with only a few non-dangerous animals. Conference Managers noted that the de minimis exemption would free up agency resources and that they expected the agency to lift the stay on the contingency rule “without delay.” USDA finalized its de minimis rule in June 2018 but has not yet lifted the stay. It is imperative that AWA-regulated facilities have plans in place for natural disasters, power outages, and other emergencies. In addition to raising serious animal welfare concerns, a lack of planning poses safety risks and an undue burden on local first-responders, non-governmental organizations, and members of the public who respond to save animals in times of crisis. Facilities doing NIH-funded research are already required to have disaster plans for their animals, as are those accredited by the Association for Assessment and Accreditation of Laboratory Animal Care (AAALAC) International and

by the Association of Zoos and Aquariums (AZA). This rule will level the playing field to ensure that puppy mills, roadside zoos, and other outliers also have disaster plans.

Requested Bill Language: We hope you will include the following language:

"The Secretary of Agriculture shall enforce the final rule published on December 31, 2012 (77 Fed. Reg. 76815) by lifting the stay issued on July 31, 2013 (78 Fed Reg 46255) no later than 60 days after enactment of this Act."

APHIS / Emergency Preparedness and Response / Animal Care

Summary: We request \$1,400,000 for Animal Care under APHIS' Emergency Preparedness and Response line item.

Background: Hurricanes Katrina and Rita demonstrated that many people refuse to evacuate if they are forced to leave their pets behind. These funds enable the Animal Care program to coordinate with FEMA on the National Response Plan; support state and local governments' efforts to plan for protection of people with animals, incorporating lessons learned from previous disasters; and support a cooperative agreement on hazard preparedness and response for zoos and aquariums.

Requested Funding: We request \$1,400,000 for Animal Care under APHIS' Emergency Management Systems line item.

Thank you for your time and consideration of our requests.

Sincerely,



Earl Blumenauer
Member of Congress



Christopher M. Smith
Member of Congress

Member of Congress

Animal Welfare Appropriations, FY21
List of Signatories
March 13, 2020

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Salud O. Carbajal
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Sean Casten
Kathy Castor
Joaquin Castro
Judy Chu
David N. Cicilline
Gilbert R. Cisneros, Jr.
Yvette D. Clarke
Wm. Lacy Clay
Steve Cohen
Gerald E. Connolly
J. Luis Correa
Jim Costa
Joe Courtney
Jason Crow
Joe Cunningham
Sharice L. Davids
Danny K. Davis
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Peter A. DeFazio
Diana DeGette
Rosa DeLauro
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Antonio Delgado
Val Butler Demings
Mark DeSaulnier
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Debbie Dingell
Mike Doyle
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Veronica Escobar
Anna G. Eshoo
Adriano Espaillat
Abby Finkenauer
Brian Fitzpatrick
Lizzie Fletcher
Bill Foster
Lois Frankel
Tulsi Gabbard
Matt Gaetz
Ruben Gallego
Jesús G. "Chuy" García
Sylvia R. Garcia
Jimmy Gomez
Vicente Gonzalez
Lance Gooden
Josh Gottheimer
Al Green
Raúl M. Grijalva
Deb Haaland
Alcee L. Hastings
Jahana Hayes
Denny Heck
Brian Higgins
Jim Himes
Steven Horsford
Chrissy Houlahan
Jared Huffman
Pramila Jayapal
Hakeem Jeffries
Eddie Bernice Johnson
Henry C. "Hank" Johnson, Jr.
John Katko
William R. Keating
Joseph P. Kennedy, III
Ro Khanna
Daniel T. Kildee
Andy Kim
Ron Kind
Peter T. King
Raja Krishnamoorthi
Ann McLane Kuster
Conor Lamb
James R. Langevin
John B. Larson

Al Lawson
Barbara Lee
Susie Lee
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Mike Levin
John Lewis
Ted W. Lieu
Daniel W. Lipinski
Dave Loebsack
Zoe Lofgren
Alan Lowenthal
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Elaine G. Luria
Stephen F. Lynch
Tom Malinowski
Carolyn B. Maloney
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Doris Matsui
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A. Donald McEachin
James P. McGovern
Jerry McNerney
Grace Meng
Joseph D. Morelle
Seth Moulton
Debbie Mucarsel-Powell
Stephanie Murphy
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Joe Neguse
Donald Norcross
Eleanor Holmes Norton
Ilhan Omar
Jimmy Panetta
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Eric Swalwell
Mark Takano
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Lori Trahan
David Trone
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Michael Waltz
Debbie Wasserman Schultz
Peter Welch
Jennifer Wexton
Susan Wild
Frederica S. Wilson
John Yarmuth

United States Senate

WASHINGTON, DC 20510

April 6, 2020

The Honorable John Hoeven
Chairman
Appropriations Subcommittee on Agriculture,
Rural Development, FDA, and Related Agencies
129 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Jeff Merkley
Ranking Member
Appropriations Subcommittee on
Agriculture, Rural Development, FDA, and
Related Agencies
190 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Hoeven and Ranking Member Merkley:

As you consider Fiscal Year (FY) 2021 appropriations, we urge you to support enforcement of key U.S. Department of Agriculture (USDA) animal welfare laws. Your leadership is crucial in helping to protect the welfare of millions of animals across the country.

As you know, enforcement of animal welfare laws also benefits people by decreasing: sale of unhealthy pets by commercial breeders, commonly referred to as "puppy mills;" laboratory conditions that may impair the scientific integrity of animal based research; risks of disease transmission from, and dangerous encounters with, wild animals in public exhibition; injuries and deaths of pets on commercial airline flights due to mishandling and exposure to adverse environmental conditions; food safety risks to consumers from sick animals who can transmit illness; injuries to slaughterhouse workers from suffering animals; and orchestrated dogfights and cockfights that often involve illegal gambling, drug trafficking, and human violence, and can contribute to the spread of costly illnesses such as virulent Newcastle disease and bird flu.

We request the following for FY 2021:

Animal and Plant Health Inspection Service / Animal Welfare Act Enforcement

Summary: We request language to address multiple ways that current USDA leadership is undermining Animal Welfare Act (AWA) enforcement.

Background: The AWA is the chief federal law for the protection of animals. USDA's Animal Care division is responsible for inspections of 12,851 sites, including commercial breeding facilities, laboratories, zoos, circuses, and airlines, to ensure compliance with AWA standards. USDA's Office of General Counsel (OGC) and Investigative and Enforcement Services (IES) play essential roles in enforcement. We are very concerned that USDA is treating the regulated industries as customers, giving great deference to those who don't even comply with the AWA's modest requirements while giving short shrift to the animals and the taxpaying public.

For example, in April 2018, USDA undertook a "pilot program" in which it alerted some facilities prior to AWA inspections. This radical departure from the agency's decades-long

practice of conducting only unannounced compliance inspections allows facilities to hide problems just before an inspector's arrival. While this pilot program was short-lived, there is no guarantee that it won't be resurrected or that some licensees aren't still getting advance warning, so the use of announced inspections must be prohibited. There has been a precipitous decline in AWA enforcement activity over the past three years, with far fewer cases initiated, warnings issued, and official complaints filed, including a 65 percent drop in citations and a 92 percent drop in enforcement cases from 2016 to 2018. This decline is not due to facilities suddenly complying with the law – to illustrate, several preventable exhibitor incidents in which wild animals hurt children, other animals, and themselves resulted in no citations. Inspectors are being advised not to cite noncompliances. According to a May 2018 USDA Tech Note, even multiple incidents directly affecting animal health and welfare are no longer to be included on inspection reports if certain criteria are met. This document explains how facilities can self-report to avoid getting citations on inspection reports. The USDA also continues to use “Teachable Moments” as a means of avoiding documentation of violations on inspection reports, despite committee report language directing it to stop this deceptive practice.

Inspection standards and procedures have been dangerously weakened, such as no longer requiring that a written program of veterinary care be signed by an actual veterinarian, permitting veterinarians to diagnose and treat by phone without seeing their animal patients, and no longer requiring that animals be killed according to the American Veterinary Medical Association's Guidelines for Euthanasia of Animals. Inspection reports also show a pattern of downplaying problems; for example, ill and injured animals were listed as “treated” when in fact they had been euthanized, and a licensee who denied access to her property for seven consecutive inspection attempts during normal business hours over a two year period received only a single citation while others are not being cited at all. Focusing primarily on educating those in the regulated community rather than on enforcement is a strategy that undermines animal welfare. As explained by USDA's Inspector General in a 2010 Office of the Inspector General (OIG) audit of the animal care program: “The agency believed that compliance achieved through education and cooperation would result in long-term dealer compliance and, accordingly, it chose to take little or no enforcement action against most violators. However, relying heavily on education for serious or repeat violators – without an appropriate level of enforcement – weakened the agency's ability to protect the animals.”^[1] Morale at the agency is very low. From 2017 through 2018, about 40 animal care staff members had been suspended, transferred or fired, had taken early retirement, or had quit. There are currently 18 vacant inspector positions and among those in the inspection workforce, there is an alarming lack of expertise and training.

Also, following recommendations in that 2010 OIG audit regarding dog breeders and strong encouragement by Members of Congress and the public, the USDA issued a final rule in 2013 intended to close a loophole that allowed breeders to sell puppies to customers sight-unseen over the Internet without a USDA license. But since that time, enforcement of online dealers has been lax and many online operations continue to sell puppies without the necessary USDA licensing.

^[1] <https://www.usda.gov/oig/webdocs/33002-4-SF.pdf>

Requested Bill Language: We hope you will include report language calling attention to these concerns and pressing animal care, OGC, and IES to conduct robust oversight and enforcement of this vital law. We also specifically request the following bill language:

“The Secretary shall ensure that each noncompliance observed by a USDA inspector under the Animal Welfare Act, 7 U.S.C. Sections 2131-2159, is documented on an inspection report. None of the funds made available by this Act may be used to conduct announced compliance inspections under the Animal Welfare Act.”

Animal and Plant Health Inspection Service / Horse Protection Act Enforcement

Summary: We request \$2,000,000 and bill language to direct stronger enforcement of the Horse Protection Act (HPA).

Background: Congress enacted the HPA in 1970 to outlaw the abusive practice of “soring,” in which unscrupulous trainers deliberately inflict pain on Tennessee Walking Horses’ hooves and legs to create an artificially exaggerated, high-stepping gait and gain unfair competitive advantage at horse shows. Some examples of soring include applying caustic chemicals, using plastic wrap and tight bandages to “cook” those chemicals deep into the horse’s flesh for days, attaching heavy chains to strike against the sore legs and heavy, stacked horseshoes that force the horse’s legs into unnatural angles, cutting the hooves down to expose the live tissue, jamming hard objects into the sensitive areas of the feet, and using salicylic acid or other painful substances to slough off scarred tissue or numbing agents in an attempt to disguise the sored areas. An October 2010 OIG report documented serious conflicts of interest and other significant problems with the industry self-monitoring system of Horse Industry Organizations (HIOs) on which the Animal and Plant Health Inspection (APHIS) inspection program still relies.

Many horse show industry, veterinary, and animal protection groups have called for an end to this flawed system of industry self-policing, and USDA announced final regulations to accomplish this along with other needed reforms to end soring ^[2]. These rules [Docket No. APHIS-2011-0009] received more than 100,000 public comments in support, including bipartisan letters signed by 182 Representatives and 42 Senators. Unfortunately, these regulations were withdrawn. Since then, it has been reported that USDA officials have stated their view that the HIOs have primary responsibility to enforce the HPA, not the agency.

Requested Funding: We request \$2,000,000 in the bill to permit stronger enforcement of the HPA.

Requested Report Language:

“The Committee provides \$2,000,000 for enforcement of the Horse Protection Act of 1970, as amended (15 U.S.C. 1831), and reminds the Secretary that Congress granted the agency primary responsibility to enforce this law.”

Requested Bill Language:

^[2] https://www.aphis.usda.gov/newsroom/federal_register/hpa-rule.pdf

“The Secretary shall reinstate and publish the final rule, “Horse Protection; Licensing of Designated Qualified Persons and Other Amendments” [Docket No. APHIS-2011-0009], as it was finalized and displayed in advance public notice in the Federal Register on January 19, 2017, with effective dates adjusted to reflect the delay in implementation.”

USDA Data Purge / Online Access to HPA and AWA Records

Summary: We request bill language clarifying specific details for USDA posting records under the Horse Protection Act and the Animal Welfare Act.

Background: We very much appreciated Sec. 788 of the FY 2020 omnibus, which directed APHIS to resume online posting hereafter of all inspection reports and enforcement records under the HPA and the AWA, in their entirety without redactions that obscure the identities of horse sorers, puppy mills, roadside zoos, and others cited for violations. The taxpaying public that finances USDA enforcement must have searchable access to the compliance records of regulated entities allowing analysis and comparison of data and holding the USDA accountable. Public access to this information can guide consumer decision-making and plays an important role in deterring regulated entities from violating the law and monitoring whether the USDA is complying with congressional mandates and OIG recommendations. Access to these records underpins state and local laws meant to protect animals and consumers, such as the laws in eight states prohibiting sale of dogs from breeding operations with a history of serious AWA violations.

Transparency is also in the interest of responsible industry stakeholders. As noted by Speaking of Research, a pro-animal research organization opposing the USDA purge, “[w]hen information is hidden, particularly where it was once available...the public wonders what is being hidden and why, and researchers must devote even more resources to combatting the public perception that they are not transparent.” Posting these records is akin to police departments posting arrest reports, food safety agencies posting code violations, and professional licensing boards posting alleged violations of professional misconduct.

In the overwhelming majority of instances of AWA and HPA non-compliances observed by a USDA inspector when APHIS takes any enforcement action, the agency’s final action is a warning letter or stipulation. In the much rarer cases where APHIS pursues further legal action, it is essential to be able to see the administrative complaint that details alleged violations. These categories of documents, along with consent decrees and court orders, had been posted on the agency’s website prior to the abrupt removal of records in February 2017, and the public deserves renewed access to all of these documents.

Requested Bill Language:

“Animal Welfare Act and Horse Protection Act enforcement records that must be made publicly available under Sec. 788(b)(2) of P.L. 116-94 shall include all warning letters, stipulations, and administrative complaints. The searchable databases in Sec. 788(a) and (b) of P.L. 116-94 shall be searchable to at least the same extent as they were on January 30, 2017 in terms of both function and content.”

Animal and Plant Health Inspection Service / Protecting Animals with Shelter Implementation

Summary: We request \$3,000,000 for grants to provide shelter options for domestic violence survivors with companion animals.

Background: We appreciate that Congress provided \$2 million in FY 2020 to begin implementing Section 12502 of the 2018 Farm Bill (P.L. 115-334), which incorporated the language of the Pet and Women Safety (PAWS) Act to authorize a new grant program to provide emergency and transitional shelter options for domestic violence survivors with companion animals. Research shows that abusers often threaten or inflict violence on pets as a way to intimidate or exert control over their partners and prevent them from leaving. This program will ensure that more domestic violence service providers are able to accommodate pets or arrange for pet shelter.

Requested Funding: We request \$3,000,000 in the bill to continue implementing the PAWS grant program as authorized in Section 12502 of P.L. 115-334.

Requested Report Language:

“The Committee directs the Secretary of Agriculture to continue coordinating with the Departments of Justice, Housing and Urban Development, and Health and Human Services to efficiently implement the grant program for providing emergency and transitional shelter options for domestic violence survivors with companion animals.”

Agricultural Research Service / Animal Welfare for Farm Animals Used in Agricultural Research

Summary: We request report language to ensure high standards of care for animals used in research at ARS facilities.

Background: A 2015 investigation by the New York Times reported shocking instances of animal mistreatment and neglect associated with experiments conducted on farm animals at an ARS facility, the U.S. Meat Animal Research Center (USMARC), and repeated disregard for objections raised by the Center’s own veterinary staff. We appreciate that the Committee responded by making five percent of the ARS budget for FY 2016 contingent on ARS updating its animal care policies and requiring that all ARS facilities at which animal research is conducted have a fully functioning Institutional Animal Care and Use Committee (IACUC) to ensure compliance with animal welfare standards and principles of scientific integrity. In that and subsequent years, the Committee also provided increased funding to enable APHIS, under an MOU with ARS, to conduct inspections consistent with the AWA at each ARS facility that uses animals in research, and directed APHIS to post its inspections reports online and provide copies to the Committees. The explanatory statement accompanying the FY 2019 omnibus expressed concern about the failure to “report a single specific negative finding by APHIS inspectors, despite the fact that numerous violations have been found involving the death of numerous animals and serious health issues of many more.” The House committee report accompanying

the FY 2020 bill noted that “ARS has not yet submitted the single report discussing all the violations found by APHIS to date that was mandated in the 2019 Act and that the first quarterly report since the 2019 Act was enacted failed to include any discussion of violations found by APHIS and specific actions taken. APHIS is directed to include every violation its inspectors find and never to frustrate the Committee’s oversight activities by using so-called ‘teachable moments’ or other means of not reporting ARS facility violations.”

Requested Report Language: We commend the Committee for its ongoing oversight and request the following report language to ensure ARS facilities’ adherence to the AWA, continued APHIS inspections of each ARS facility with animals, and full transparency regarding inspection results and preventive actions:

“The Committee directs ARS to ensure that each of its facilities housing animals is adhering to the standards of the Animal Welfare Act at all times. The Committee further directs APHIS to conduct inspections of all such ARS facilities and post inspection reports online in their entirety without redactions except signatures, and directs ARS to submit quarterly reports that include all violations found by APHIS during that quarter and the specific actions that will be taken to prevent their recurrence.”

Food Safety and Inspection Service / Humane Methods of Slaughter Act Enforcement

Summary: We request bill language to ensure strengthened Humane Methods of Slaughter Act (HMSA) enforcement.

Background: We appreciate the committee’s inclusion of FY 2020 bill and committee report language regarding humane slaughter. USDA oversight of humane handling rules for animals at slaughter facilities is vitally important not only for animal welfare but also for food safety. Effective day-to-day enforcement can prevent abuses like those previously documented in undercover investigations and reduce the chance of associated food safety risks and costly recalls of meat and egg products.

Requested Bill Language: We request the following language to ensure HMSA enforcement is strengthened:

“No fewer than 165 full-time equivalent positions shall be employed during fiscal year 2021 for purposes dedicated solely to inspections and enforcement related to the Humane Methods of Slaughter Act. The FSIS shall ensure that inspectors focus their attention on overseeing compliance with humane handling rules for animals as they arrive and are offloaded and handled in ante-mortem holding pens, suspect pens, chutes, stunning areas, and on the processing line. The FSIS shall also ensure that all inspectors receive robust training in humane handling and inspection techniques, including for nonambulatory disabled animals, and it shall resume preparation and posting of humane handling quarterly enforcement reports on its website.”

Office of Inspector General / Animal Fighting Enforcement

Summary: We request language calling for the OIG to strengthen efforts to combat illegal animal fighting activity and to assess USDA’s enforcement of key animal welfare laws.

Background: Congress first prohibited most interstate and foreign commerce of animals for fighting in 1976, established felony penalties in 2007, and strengthened the law as part of the 2002, 2008, 2014, and 2018 Farm Bills. We hope the Committee can urge USDA to take seriously its responsibility to enforce this law, working with state and local agencies to complement their efforts and address these barbaric practices, in which animals are drugged to heighten their aggression and forced to keep fighting even after they've suffered grievous injuries.

Dogs bred and trained to fight endanger public safety, and some dogfighters steal pets to use as bait for training their dogs. Cockfighting was linked to an outbreak of Exotic Newcastle Disease in 2002-2003 that cost taxpayers more than \$200 million to contain. In 2018, we saw a return of this virulent disease among backyard “exhibition” chickens,^[3] which law enforcement can attest are typically gamefowl used in cockfighting. This outbreak is ongoing and has crossed over to the poultry sector. Cockfighting has also been linked to the death of a number of people in Asia reportedly exposed to bird flu through the fighting activity.

Requested Report Language: We hope you will include the following language:

“The Committee is very concerned about illegal animal fighting activity that subjects animals to terrible cruelty and has the potential to spread illnesses such as virulent Newcastle disease and avian flu. The OIG is encouraged to increase its efforts to combat this illegal activity and to pursue animal fighting cases even if related concerns such as money laundering and illegal weapons have not yet been determined to be at issue in specific cases before an investigation is opened. The Committee also encourages the OIG to audit and investigate USDA enforcement of the Animal Welfare Act, the Horse Protection Act, and the Humane Methods of Slaughter Act to help improve compliance with these important laws.”

National Institute of Food and Agriculture / National Veterinary Medical Services Act

Summary: We request \$9,000,000 for the Veterinary Medicine Loan Repayment Program (VMLRP) (National Veterinary Medical Service Act, P.L. 108-161).

Background: We appreciate that Congress has recognized the importance of ensuring access to timely veterinary care, which is a core animal welfare and animal health concern. To ensure adequate oversight of humane handling and food safety rules, to defend against bioterrorism, and to address myriad public health issues including those associated with parasites, rabies, chronic wasting disease, and pet overpopulation, VMLRP incentivizes veterinarians to fill vacancies in federally-designated veterinary shortage areas across the country. VMLRP offers educational loan assistance in exchange for at least three years of service in a shortage area. For FY 2020, USDA announced 217 veterinary shortage areas in 46 states, up from the 190 shortage areas designated for FY 2019. While not the only factor, student debt is a major contributor to veterinary shortages and can present a challenge when looking to attract veterinarians to practice in rural and underserved areas. In 2019, 81 percent of veterinary school students graduated with debt. While Congress has been generous in its support of VMLRP, additional funding for the

^[3] www.aphis.usda.gov/animalhealth/vnd

program is needed to close gaps across the country. Each year, VMLRP receives ample applications but veterinary shortage areas remain unfilled due to budget limitations. For example, in FY 2018, USDA was only able to make 74 awards out of 154 applicants. As of the 2019 application cycle, over 1,600 veterinarians have applied for assistance under this program, yet only 596 awards have been made.

Requested Funding: We request \$9,000,000 for the Veterinary Medicine Loan Repayment Program and continued support for the Veterinary Services Grant Program.

APHIS / Animal Welfare Act Facility Disaster Plans

Summary: We request language to ensure that AWA-regulated facilities have disaster plans for the animals in their care.

Background: The USDA proposed a common-sense rule in 2008 requiring facilities regulated under the AWA such as commercial animal dealers, exhibitors, and research labs to have contingency plans to safely evacuate and care for their animals in the event of an emergency. In 2012, USDA published the final rule and it went into effect on January 30, 2013, requiring facilities to have their plans in place by July 29, 2013. However, USDA issued an indefinite stay of implementation of this final rule on July 31, 2013 in response to concerns about very small businesses being covered. Congress then addressed these concerns by including a provision in the 2014 Farm Bill directing USDA to establish a de minimis exemption in the AWA for licensees with only a few non-dangerous animals. Conference Managers noted that the de minimis exemption would free up agency resources and that they expected the agency to lift the stay on the contingency rule “without delay.” USDA finalized its de minimis rule in June 2018 but has not yet lifted the stay. It is imperative that AWA-regulated facilities have plans in place for natural disasters, power outages, and other emergencies. In addition to raising serious animal welfare concerns, a lack of planning poses safety risks and an undue burden on local first-responders, non-governmental organizations, and members of the public who respond to save animals in times of crisis. Facilities doing NIH-funded research are already required to have disaster plans for their animals, as are those accredited by the Association for Assessment and Accreditation of Laboratory Animal Care (AAALAC) International and by the Association of Zoos and Aquariums (AZA). This rule will level the playing field to ensure that puppy mills, roadside zoos, and other outliers also have disaster plans.

Requested Bill Language:

“The Secretary of Agriculture shall enforce the final rule published on December 31, 2012 (77 Fed. Reg. 76815) by lifting the stay issued on July 31, 2013 (78 Fed Reg 46255) no later than 60 days after enactment of this Act.”

APHIS / Emergency Preparedness and Response / Animal Care

Summary: We request \$1,400,000 for Animal Care under APHIS' Emergency Preparedness and Response line item.

Background: Hurricanes Katrina and Rita demonstrated that many people refuse to evacuate if they are forced to leave their pets behind. These funds enable the Animal Care program to

coordinate with FEMA on the National Response Plan; support state and local governments' efforts to plan for protection of people with animals, incorporating lessons learned from previous disasters; and support a cooperative agreement on hazard preparedness and response for zoos and aquariums.

Requested Funding: We request \$1,400,000 for Animal Care under APHIS' Emergency Preparedness and Response line item.

Thank you for your consideration of our requests.

Sincerely,



Ron Wyden
United States Senator



John Kennedy
United States Senator

/S/ Tammy Baldwin

Tammy Baldwin
United States Senator

/S/ Richard Blumenthal

Richard Blumenthal
United States Senator

/S/ Cory A. Booker

Cory A. Booker
United States Senator

/S/ Sherrod Brown

Sherrod Brown
United States Senator

/S/ Maria Cantwell

Maria Cantwell
United States Senator

/S/ Benjamin L. Cardin

Benjamin L. Cardin
United States Senator

/S/ Thomas R. Carper

Thomas R. Carper
United States Senator

/S/ Robert P. Casey, Jr.

Robert P. Casey, Jr.
United States Senator

/S/ Susan M. Collins

/S/ Christopher A. Coons

Susan M. Collins
United States Senator

Christopher A. Coons
United States Senator

/S/ Catherine Cortez Masto

/S/ Tammy Duckworth

Catherine Cortez Masto
United States Senator

Tammy Duckworth
United States Senator

/S/ Richard J. Durbin

/S/ Dianne Feinstein

Richard J. Durbin
United States Senator

Dianne Feinstein
United States Senator



/S/ Kamala D. Harris

Kirsten Gillibrand
United States Senator

Kamala D. Harris
United States Senator

/S/ Margaret Wood Hassan

/S/ Mazie K. Hirono

Margaret Wood Hassan
United States Senator

Mazie K. Hirono
United States Senator

/S/ Tim Kaine

/S/ Amy Klobuchar

Tim Kaine
United States Senator

Amy Klobuchar
United States Senator

/S/ Edward J. Markey

/S/ Martha McSally

Edward J. Markey
United States Senator

Martha McSally
United States Senator

/S/ Robert Menendez

/S/ Christopher S. Murphy

Robert Menendez
United States Senator

Christopher S. Murphy
United States Senator

/S/ Gary C. Peters

Gary C. Peters
United States Senator

/S/ Jacky Rosen

Jacky Rosen
United States Senator

/S/ Brian Schatz

Brian Schatz
United States Senator

/S/ Kyrsten Sinema

Kyrsten Sinema
United States Senator

/S/ Debbie Stabenow

Debbie Stabenow
United States Senator

/S/ Chris Van Hollen

Chris Van Hollen
United States Senator

/S/ Elizabeth Warren

Elizabeth Warren
United States Senator

/S/ Jack Reed

Jack Reed
United States Senator

/S/ Bernard Sanders

Bernard Sanders
United States Senator



Jeanne Shaheen
United States Senator

/S/ Tina Smith

Tina Smith
United States Senator

/S/ Tom Udall

Tom Udall
United States Senator

/S/ Mark R. Warner

Mark R. Warner
United States Senator

/S/ Sheldon Whitehouse

Sheldon Whitehouse
United States Senator