

Congress of the United States

Washington, DC 20515

August 21, 2023

The Honorable Glenn Thompson
Chairman
House Committee on Agriculture
1301 Longworth House Office Bldg.
Washington, D.C. 20515

The Honorable David Scott
Ranking Member
House Committee on Agriculture
1010 Longworth House Office Bldg.
Washington, D.C. 20515

Dear Chairman Thompson and Ranking Member Scott,

We write today expressing our strong opposition to the inclusion of H.R. 4417, the Ending Agricultural Trade Suppression (EATS) Act, or any similar legislation in the 2023 Farm Bill. Modeled after former Representative Steve King’s amendment, which was intensely controversial and ultimately excluded from the final 2014 and 2018 Farm Bills, the EATS Act could harm America’s small farmers, threaten numerous state laws, and infringe on the fundamental rights of states to establish laws and regulations within their own borders.

Demand from consumers, food companies, and the farming community has propelled 15 states to enact public health, food safety, and humane standards for the in-state production and sale of products from egg-laying chickens, veal calves, and mother pigs. The egg industry, which chose not to fight these laws, is far along in transitioning to cage-free facilities. But at the behest of some in the pork industry,¹ the EATS Act was introduced with the primary goal of undermining these standards – particularly California’s Proposition 12, which the Supreme Court upheld in a recent decision. Unsurprisingly, the Court unanimously rejected the pork industry’s primary claim that Proposition 12’s ban on the sale of pork from cruelly confined animals is unconstitutional merely because it may have indirect so-called “extraterritorial” effects on out-of-state pork producers. The Court noted that, “Companies that choose to sell products in various States must normally comply with the laws of those various States.”²

This is not a case of California imposing its standards on other states. Producers in any state can choose not to supply another state’s consumers or to segregate animals for different markets. Pork industry economists noted this in an amicus brief, writing, “Only those producers for which compliance with Proposition 12 is economically beneficial will choose to do so, while all others will continue to supply the vast majority of the North American pork market beyond California’s border and face little or no economic impact.”³ In fact, many large pork producers, including Hormel,⁴ Perdue,⁵ Tyson,⁶ and Smithfield,⁷ as well as many small farmers, have

¹ National Pork Producers Council, Capital Update - For the Week Ending July 7, 2023, <https://nppc.org/news/capital-update-july-7-2023/>.

² *National Pork Producers Council v. Ross*, 143 S. Ct. 1142, 1142 (2023).

³ Brief of Agricultural and Resource Economics Professors as Amicus Curiae, p. 24, *National Pork Producers Council v. Ross*, 143 S. Ct. 1142 (2023), available at https://www.supremecourt.gov/DocketPDF/21/21-468/228373/20220617170252460_21-468AgriculturalAndResourceEconomicProfessors.pdf.

⁴ Hormel Foods, *Hormel Foods Company Information About California Proposition 12*, <https://www.hormelfoods.com/newsroom/news/hormel-foods-company-information-about-california-proposition-12/>.

⁵ Press Statement, Niman Ranch, *Niman Ranch Statement on U.S. Supreme Court Decision to Uphold Proposition 12*, (May 11, 2023) <https://www.businesswire.com/news/home/20230511005858/en/> (Perdue Farms bought Natural Food Holdings, the owner of Niman Ranch, in 2015).

⁶ Tyson Foods, *Third Quarter Earnings 2021 Report*, pg 15, (Aug. 9, 2021), https://s22.q4cdn.com/104708849/files/doc_financials/2021/q3/08-11-21_Tyson-Foods-080921.pdf.

⁷ Smithfield, 2021, *Our 20th Annual Sustainability Impact Report*, pg. 22, <https://www.smithfieldfoods.com/getmedia/7ecf12e2-da3b-4d31-8796-d07e38b39e51/2021-Sustainability-Impact-Report.pdf>.

indicated that they already can or will be able to comply with Proposition 12's standards to supply the California market. A joint amicus brief submitted by small and independent farming businesses, farm advocacy organizations including the National Sustainable Agriculture Coalition, and state farmers unions for Indiana, Iowa, Pennsylvania, Idaho, Oregon and Washington stated, "Independent farmers are willing to meet this demand, and in doing so, can access some of the wealth and power that has accumulated only for pork integrators, and redistribute it back to local communities, businesses, and families."⁸ The EATS Act would undermine this progress and devalue the investments that farmers have already made to comply with Proposition 12 and similar laws.

The EATS Act goes beyond overturning Proposition 12 to threaten many other state laws. The bill is particularly draconian in that it aims to negate state and local laws even if there is no federal standard to take their place, creating an overnight regulatory vacuum. In doing so, H.R. 4417 would drastically broaden the scope of federal preemption and impede the ability of voters and elected officials to enact laws that address local concerns.

The range of potentially impacted laws is vast and covers every state.⁹ A sample of categories that could be impacted includes measures to protect against invasive pests, prevent infectious diseases, improve food safety, address agricultural concerns such as seed standards, and promote animal welfare and consumer protection regarding puppy mills and pet food.

We believe that Congress should not usurp the power of states to regulate food and agricultural products in a manner that is responsive to local contexts. We need not agree with every law or rule adopted by each state to adhere to this core principle of federalism. The federal government should play a complementary role to the states on agriculture policy, rather than rendering them powerless. H.R. 4417, like its precursors, remains extremely controversial. We urge you to reject inclusion of this provision or anything like it in the Farm Bill.

Thank you for your consideration.

Sincerely,



Earl Blumenauer
Member of Congress



Brian K. Fitzpatrick
Member of Congress

⁸ Brief of Small and Independent Farming Businesses, State Farmers Unions, and Farm Advocacy Organizations as Amicus Curiae, p. 16, *National Pork Producers Council v. Ross*, 143 S. Ct. 1142 (2023), available at https://www.supremecourt.gov/DocketPDF/21/21-468/233586/20220815212509809_IndFarmers_Ross_Amicus%20Document%20August%2015%202022%20EFile.pdf.

⁹ Harvard Law School Animal Law and Policy Program, *Legislative Analysis of H.R. 4879: The "Protect Interstate Commerce Act of 2018"*, (Apr. 2018), available at <https://animal.law.harvard.edu/wp-content/uploads/Harvard-ALPP-PICA-Report-1.pdf> (report compiled in 2018 analyzing Rep. King's legislation on which the EATS Act is based).



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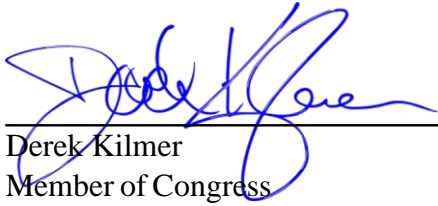
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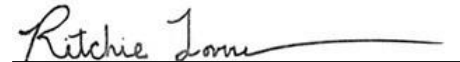
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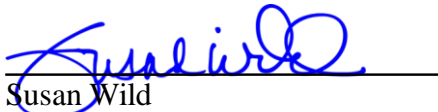
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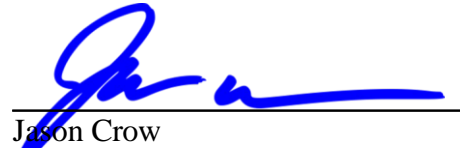
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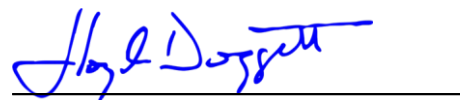
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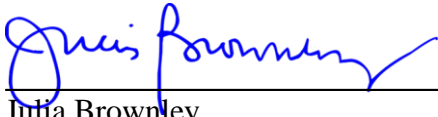
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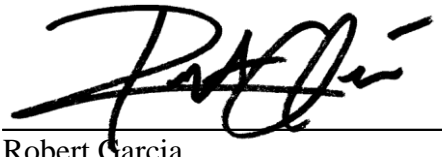
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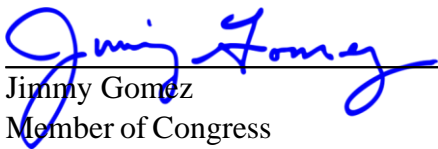
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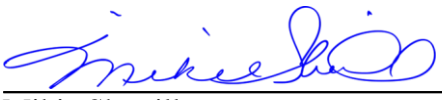
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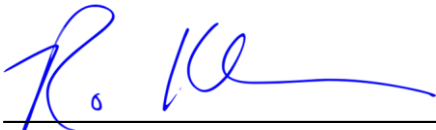
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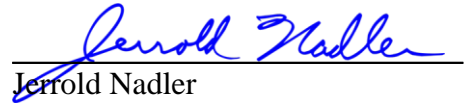
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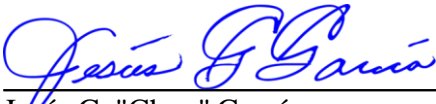
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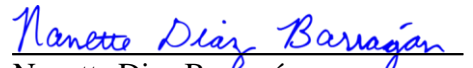
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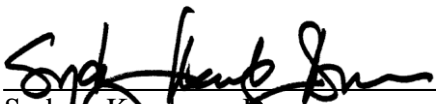
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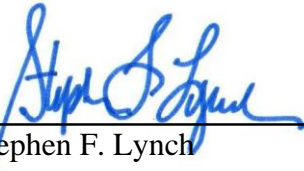
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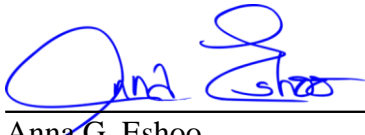
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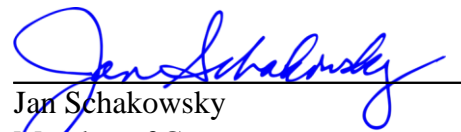
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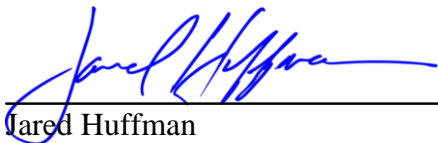
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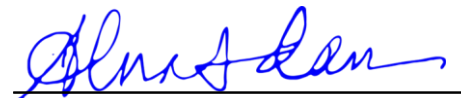
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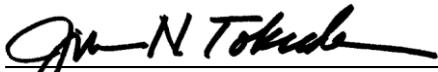
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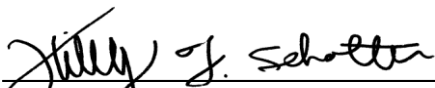
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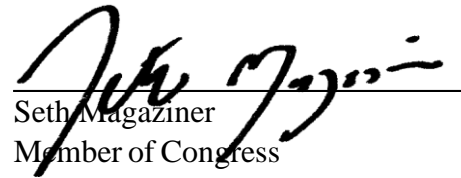
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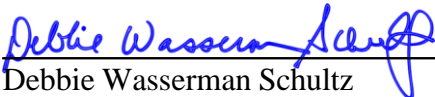
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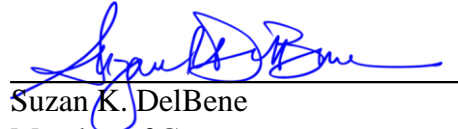
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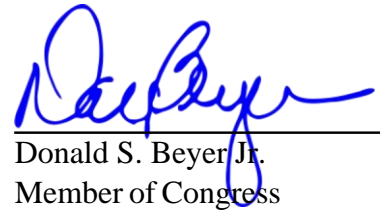
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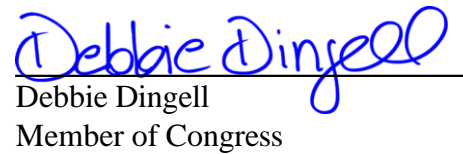
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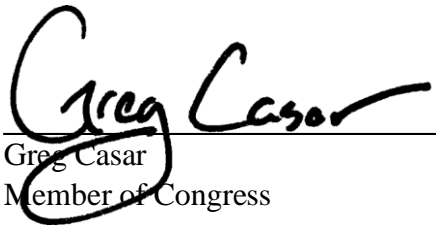
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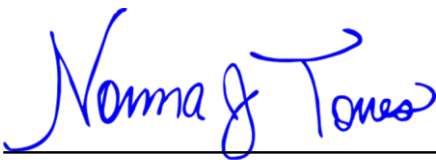
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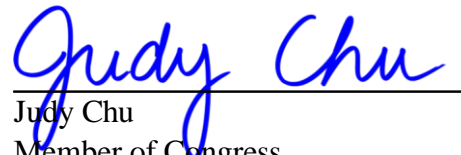
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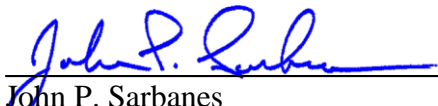
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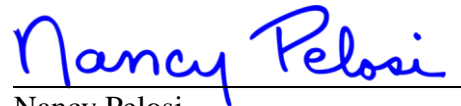
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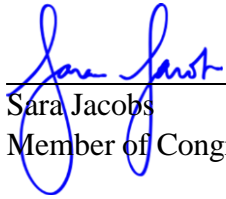
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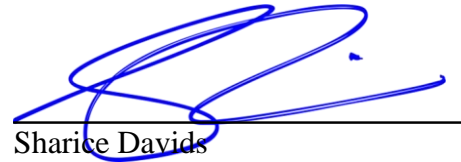
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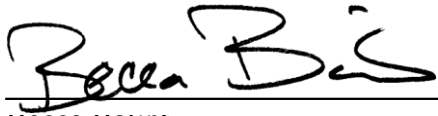
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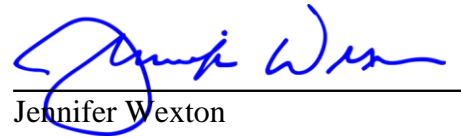
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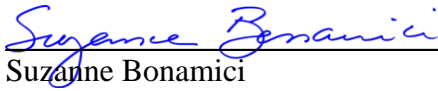
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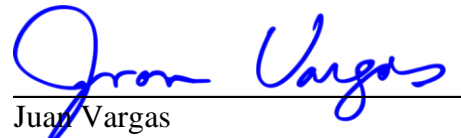
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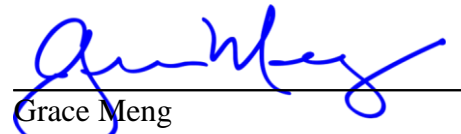
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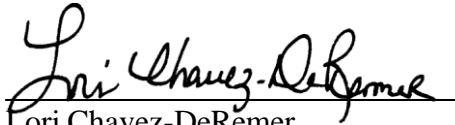
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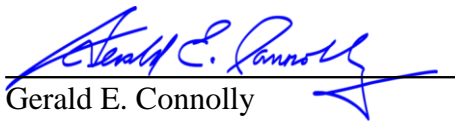
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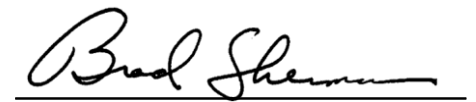

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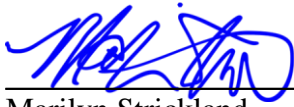

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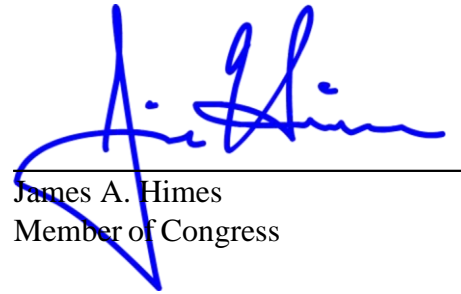

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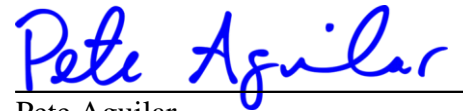
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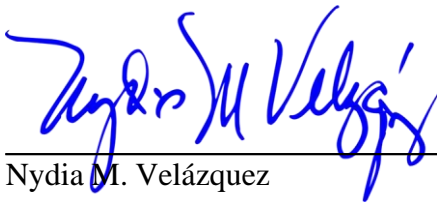
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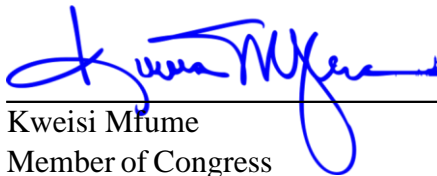
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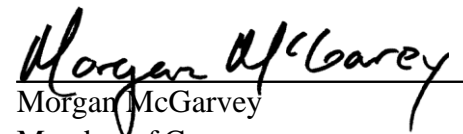
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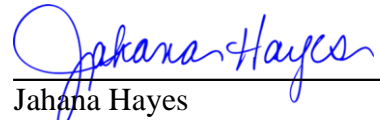
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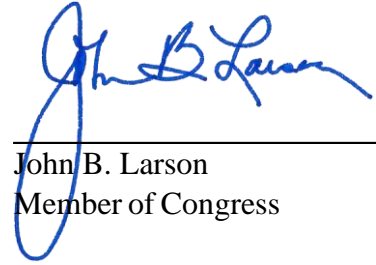
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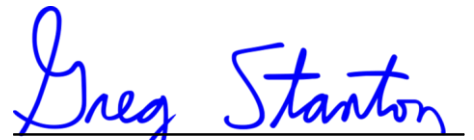
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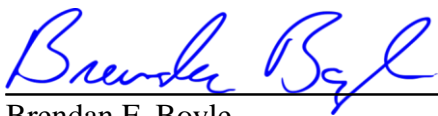
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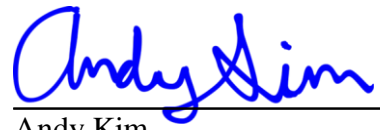
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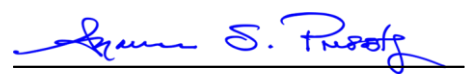
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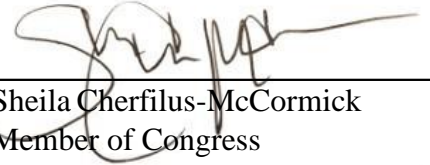
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Member of Congress



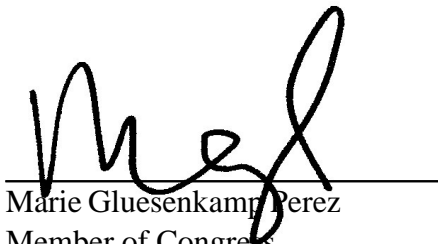
Valerie P. Foushee
Member of Congress



Madeleine Dean
Member of Congress



Chris Pappas
Member of Congress



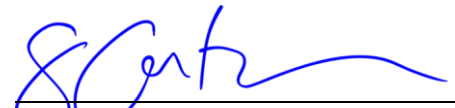
Marie Gluesenkamp Perez
Member of Congress



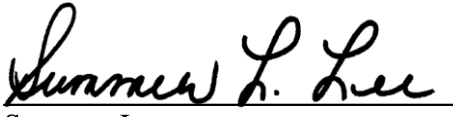
Chrissy Houlahan
Member of Congress

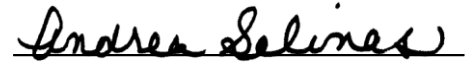


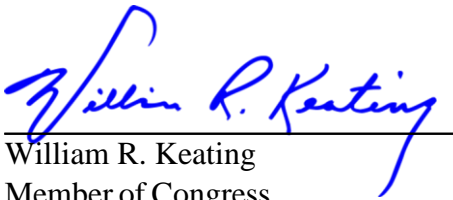
Rick Larsen
Member of Congress




Sean Casten
Member of Congress



Summer Lee
Member of Congress



Andrea Salinas
Member of Congress


William R. Keating
Member of Congress



Maxwell Alejandro Frost
Member of Congress

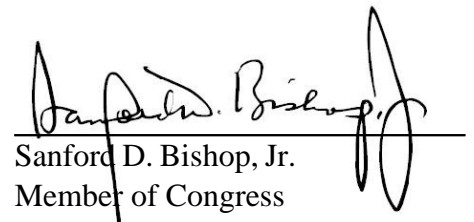

Emilia Strong Sykes
Member of Congress

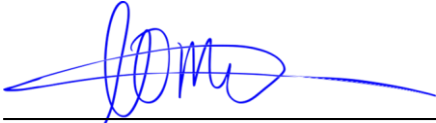

Christopher H. Smith
Member of Congress


Shontel M. Brown
Member of Congress


Al Green
Member of Congress


Jake Auchincloss
Member of Congress

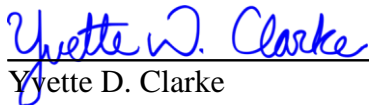

Sanford D. Bishop, Jr.
Member of Congress



Ilhan Omar
Member of Congress



Terri A. Sewell
Member of Congress



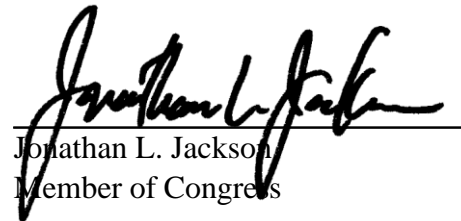
Yvette D. Clarke
Member of Congress



Chris Deluzio
Member of Congress



Diana DeGette
Member of Congress



Jonathan L. Jackson
Member of Congress



Robert J. Menendez
Member of Congress



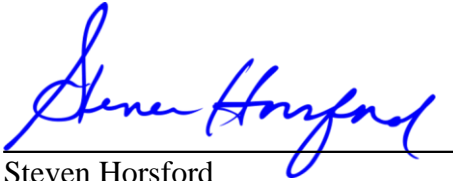
Dan Gohman
Member of Congress



Troy Carter
Member of Congress



Val Hoyle
Member of Congress



Steven Horsford
Member of Congress



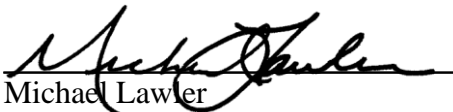
Raúl M. Grijalva
Member of Congress



Ruben Gallego
Member of Congress



Richard E. Neal
Member of Congress



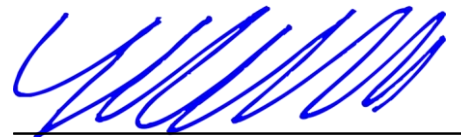
Michael Lawler
Member of Congress



Brittany Pettersen
Member of Congress



Darren Soto
Member of Congress



Mike Garcia
Member of Congress

/s

Maxine Waters
Member of Congress