

United States Senate

WASHINGTON, DC 20510

July 12, 2016

The Honorable John McCain
Chairman
Senate Armed Services Committee
228 Russell Senate Office Building
Washington, D.C. 20510

The Honorable Jack Reed
Ranking Member
Senate Armed Services Committee
728 Hart Senate Office Building
Washington, D.C. 20510

Dear Chairman McCain and Ranking Member Reed:

We write to express our continued concern regarding harmful language in both House and Senate versions of the National Defense Authorization Act for Fiscal Year 2017 (NDAA) that limits the applicability of the Executive Order on Fair Pay and Safe Workplaces (Fair Pay EO). As conference negotiations begin, we urge you to remove the damaging and destructive restrictions placed on this critical initiative that protects millions of hardworking Americans.


Following a 2013 staff report by the Senate HELP Committee that showed 49 of the 100 companies with the most significant wage and safety violations were also federal contractors, President Obama issued the 2014 Fair Pay EO to require companies seeking to do business with the federal government to disclose whether they have violated any of 14 long-standing labor laws, including the Fair Labor Standards Act, the Occupational Safety and Health Act, the Vietnam Era Veterans Readjustment Assistance Act, the Americans with Disabilities Act, among others. There is no requirement to disclose a mere allegation or claim of a violation by a worker of one of these laws; rather, the Fair Pay EO requires disclosure of a determination by an enforcement agency, court, or administrative body of an actual violation. There is no effort to prevent the Department of Defense (DoD) from hiring contractors who have violated labor laws; rather, in fact the purpose of the Fair Pay EO is precisely to bring companies into compliance without resorting to the only remedy currently available: barring companies from access to federal contracts. Thus the EO will strengthen the pool of contractors eligible for contracts, ensuring companies entrusted with billions of taxpayers' dollars provide fair, safe, and equitable workplaces.


Unfortunately, both the House and Senate versions of the NDAA fail to recognize the importance of the Fair Pay EO and attempt to undermine it by preventing it from applying to DoD. The Senate-passed NDAA guts the Fair Pay EO by limiting it to the handful of defense contractors who are debarred or suspended as a result of previous violations of the labor laws protected in the Fair Pay EO. Similar harmful language is found in the House-passed NDAA. These provisions thwart transparency and compliance with the law, thus creating an unlevel playing field in which unscrupulous defense contractors that skirt the law can beat out honest, law-abiding American companies that respect the rule of law.


If these dangerous provisions remain in the conferenced bill, we will be doing American workers a damaging injustice. Each year, thousands are deprived of overtime wages, denied basic workplace protections, forced to endure illegal discrimination, and made to tolerate

unwarranted health and safety risks. Those companies supported by and entrusted with federal government contracts should be expected to represent the gold standard in the American workplace. As such, we urge you to join us in our effort to protect American workers and prevent waste, fraud, and abuse in critical defense contracts: ensure the conference report removes limitations on the Fair Pay EO. We thank you for your consideration and look forward to working with you on this matter.

Sincerely,


RICHARD BLUMENTHAL
United States Senate



PATTY MURRAY
United States Senate


SHERROD BROWN
United States Senate



BARBARA A. MIKULSKI
United States Senate


RICHARD J. DURBIN
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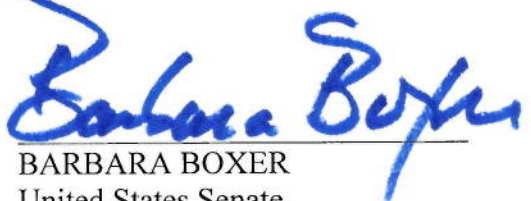

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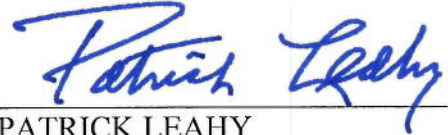
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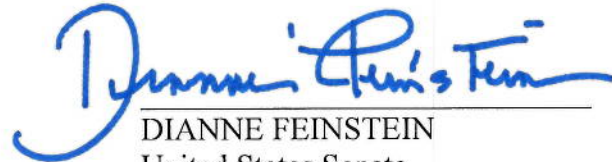
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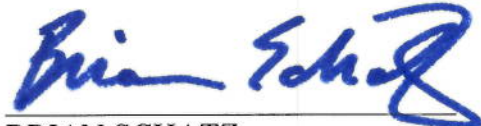
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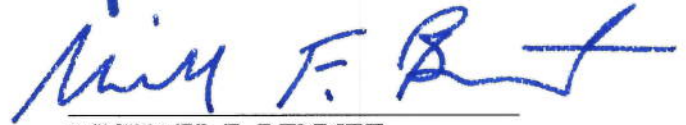
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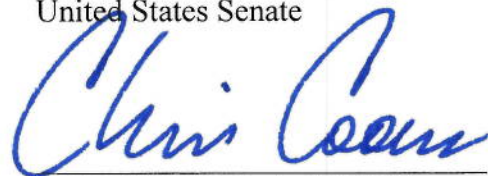
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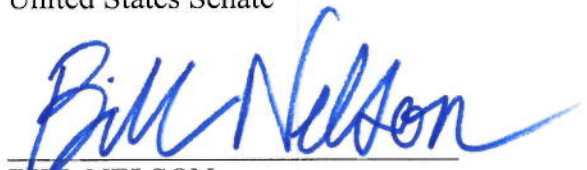
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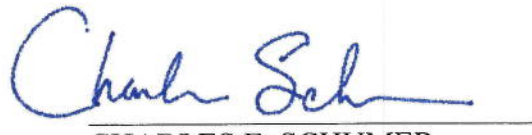


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cc: Chairman Mac Thornberry, House Armed Services Committee
Ranking Member Adam Smith, House Armed Services Committee