

# United States Senate

WASHINGTON, DC 20510

October 25, 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  
228 Russell Senate Office Building  
Washington, D.C. 20510

The Honorable Mac Thornberry  
Chairman  
House Armed Services Committee  
2310 Rayburn House Office Building  
Washington, D.C. 20510

The Honorable Adam Smith  
Ranking Member  
House Armed Services Committee  
2310 Rayburn House Office Building  
Washington, D.C. 20510

Dear Chairmen and Ranking Members:

We write in strong opposition to Section 1094 of the House-passed National Defense Authorization Act for Fiscal Year 2017 (NDAA). As conference negotiations are now in their final stages, we urge you to ensure that Section 1094 is removed from the final version of this legislation. If enacted, Section 1094 would vastly expand religious exemptions under the Civil Rights Act and Americans with Disabilities Act to allow religiously-affiliated organizations receiving federal funds to engage in discriminatory hiring practices – using taxpayer dollars to harm hardworking Americans who deserve to be protected from workplace discrimination based on sexual orientation, gender identity, religious identity, or reproductive and other healthcare decisions.

Section 1094 applies not only to the Department of Defense, but to the entire array of federal agencies and their contractors and grantees. This would have far-reaching consequences, as taxpayer-funded discrimination would be allowed in every contract, subcontract, grant, cooperative agreement, and purchase order awarded by federal agencies conducting business with religiously-affiliated organizations. This provision would jeopardize the protections against discrimination for LGBT workers on the basis of sexual orientation and gender identity enshrined in President Obama's Executive Order 13672 Prohibiting Discrimination Based on Sexual Orientation and Gender Identity by Contractors and Subcontractors. As such, Section 1094 would significantly – and needlessly – hamper the great progress our nation has made in protecting the rights of LGBT individuals.

This provision would also allow religiously-affiliated contractors and grantees to inquire about and discriminate against employees or potential employees based on an individual's religion. No one should be disqualified from a taxpayer-funded job based on their religion. This provision would be an affront to religious freedom for all Americans. Allowing Section 1094 to be included in the NDAA would essentially sanction federally funded religious discrimination, contradicting the First Amendment which prohibits religious exemptions like this that result in

harm to others. This discrimination erodes the freedoms that our military has fought for generations to protect.

Moreover, this harmful provision would also permit the firing of or refusal to hire hardworking Americans based on their personal choices if those choices are at odds with an employer's religious tenets. It would particularly harm women, as religiously-affiliated contractors and grantees would be able to discriminate against individuals based on their personal reproductive healthcare decisions, including using birth control, becoming pregnant while unmarried, using in vitro fertilization to conceive a child, and accessing other reproductive health care that otherwise violate particular religious tenets. An individual's personal, private reproductive health decisions should not put them at risk of workplace discrimination.

As such, we urge you to protect the dignity of all Americans and exclude Section 1094 from the final version of the NDAA. Our government should have no part in funding discrimination. Section 1094 is at odds with the values and beliefs that continue to advance our great nation. We thank you for your consideration and look forward to working with you on this issue.

Sincerely,

  
RICHARD BLUMENTHAL  
United States Senate


  
RICHARD J. DURBIN  
United States Senate

  
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United States Senate

  
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SHERROD BROWN  
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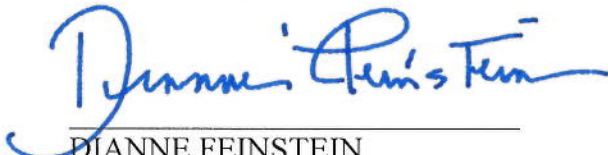
  
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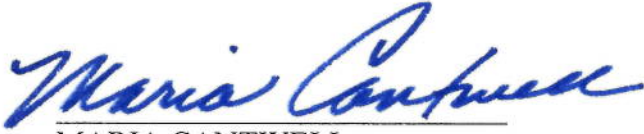
  
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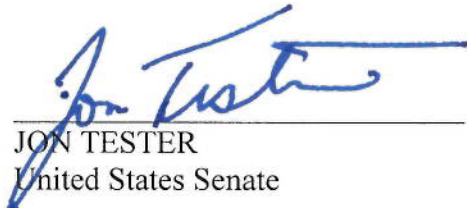
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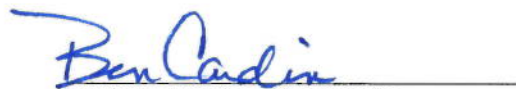
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