

**Congress of the United States**  
**Washington, DC 20515**

October 26, 2023

Senator Jack Reed  
Chairman  
Senate Armed Services Committee  
Washington, D.C. 20510

Congressman Mike Rogers  
Chairman  
House Armed Services Committee  
Washington, D.C. 20515

Senator Roger Wicker  
Ranking Member  
Senate Armed Services Committee  
Washington, D.C. 20510

Congressman Adam Smith  
Ranking Member  
House Armed Services Committee  
Washington, D.C. 20515

Dear Chairman Reed, Chairman Rogers, Ranking Member Wicker, and Ranking Member Smith:

As you finalize the Fiscal Year 2024 (FY24) National Defense Authorization Act (NDAA), we request that you preserve Section 1090G of the Senate-passed bill which is based on the bipartisan and bicameral Building Chips in America Act (S. 2228/H.R. 4549).<sup>1</sup> This provision streamlines National Environmental Policy Act (NEPA) review requirements for semiconductor manufacturing projects related to the CHIPS and Science Act of 2022. To succeed at reshoring critical semiconductor supply chains, we cannot impose years-long delays to semiconductor projects important to national and economic security.

Historically, NEPA reviews apply to projects that receive a significant portion of federal funding, giving the Federal government sufficient control over the project's outcome. This is not the case for the CHIPS program. The Commerce Department expects grants to comprise a minimal share of total project cost, between 5-15%, to spur additional private investment in the United States. Importantly, semiconductor manufacturing facilities have been privately constructed in the United States for decades and have not been required to undergo NEPA reviews.

The Commerce Department will require a NEPA review by considering CHIPS Act projects to be "major federal actions." This could include projects that have already received all environmental permits required under federal and state law,<sup>2</sup> and have begun construction. This could halt or delay commencement of new projects, impacting the United States' ability to bolster its national security interests, economic growth, competitiveness, and technological leadership.

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<sup>1</sup> A modified version of the Building Chips in America Act was included in the Senate-version of the National Defense Authorization Act (S. 2226) as a part of a manager's amendment adopted on the floor of the Senate by a vote of 94-3. *See:* [https://www.senate.gov/legislative/LIS/roll\\_call\\_votes/vote1181/vote\\_118\\_1\\_00211.htm](https://www.senate.gov/legislative/LIS/roll_call_votes/vote1181/vote_118_1_00211.htm)

<sup>2</sup> Like any other manufacturing facility constructed in the United States, construction on a new semiconductor manufacturing facility must comply with all federal, state, and local permitting and environmental protection laws – including the federal Clean Air Act, the Clean Water Act, and the Endangered Species Act.

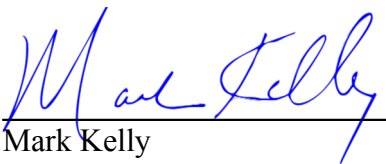
To address this challenge, Section 1090G of the Senate-passed NDAA and the Building Chips in America Act would clarify the scope of NEPA reviews required under the CHIPS Act. Under this amendment, a limited scope of projects receiving funding under the CHIPS Act would be deemed as non-major federal actions. These include projects that have already begun construction within the next year; projects for which federal funding represents a minimal amount (10% or less) of total capital investment; and projects that will simply expand or modernize an existing semiconductor facility. Furthermore, Section 1090G of the Senate-passed version ensures all states are equally attractive for semiconductor investments.

As Secretary of Commerce Gina Raimondo recently testified to the Senate Committee on Commerce, Science, and Transportation: “These are national security imperative projects. [...] Environmental concerns matter. We are not in any way suggesting we should do anything that hurts the environment or is unsustainable. That being said, we do need to [...] streamline the process, speed the process, make the process more efficient and user friendly. [...] But without the [amendment] it’s very difficult.”<sup>3</sup>

Interruptions and delays to semiconductor manufacturing projects would undermine the goals of the CHIPS Act and exacerbate risks to our economic and national security, without providing additional benefits for environmental protection. Therefore, we urge you to retain Section 1090G of S. 2226 in the final FY24 NDAA.

Thank you for your consideration of this request and for your ongoing leadership.

Sincerely,



Mark Kelly  
United States Senator



Jen A. Riggans  
Member of Congress



Ted Cruz  
United States Senator



Michael T. McCaul  
Member of Congress



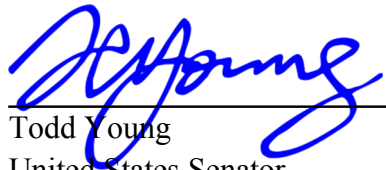
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Doris Matsui  
Member of Congress



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Scott H. Peters  
Member of Congress



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Todd Young  
United States Senator



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Sherrod Brown  
United States Senator



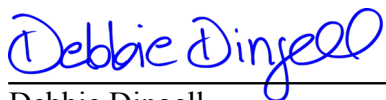
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Brandon Williams  
Member of Congress



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Colin Z. Allred  
Member of Congress



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Debbie Dingell  
Member of Congress



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Lori Chavez-DeRemer  
Member of Congress



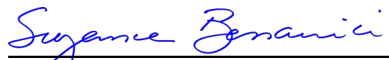
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Bill Johnson  
Member of Congress



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Ruben Gallego  
Member of Congress



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Suzanne Bonamici  
Member of Congress



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Bill Hagerty  
United States Senator



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Valerie P. Foushee  
Member of Congress



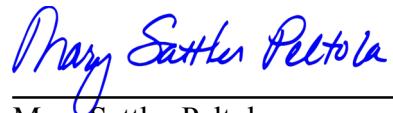
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Ryan K. Zinke  
Member of Congress



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Emilia Strong Sykes  
Member of Congress



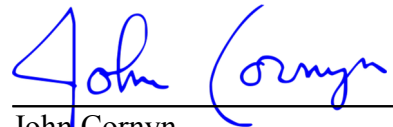
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Mary Sattler Peltola  
Member of Congress



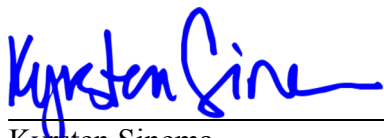
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Greg Stanton  
Member of Congress



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John Cornyn  
United States Senator



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Kyrsten Sinema  
United States Senator



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Mike Thompson  
Member of Congress



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Shri Thanedar  
Member of Congress



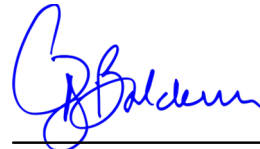
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Pete Sessions  
Member of Congress



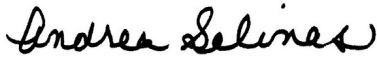
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Brad R. Wenstrup, D.P.M.  
Member of Congress



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Troy Balderson  
Member of Congress



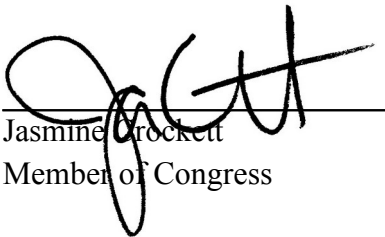
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Andrea Salinas  
Member of Congress



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Cliff Bentz  
Member of Congress



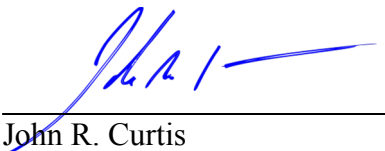
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Jasmine Crockett  
Member of Congress



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Jimmy Panetta  
Member of Congress



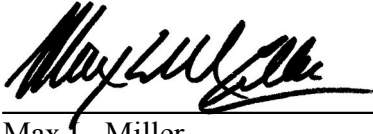
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John R. Curtis  
Member of Congress



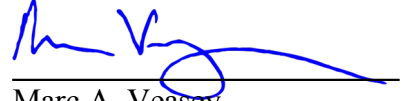
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Mike Carey  
Member of Congress



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Max L. Miller  
Member of Congress



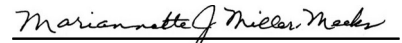
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Marc A. Veasey  
Member of Congress



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Earl L. "Buddy" Carter  
Member of Congress



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Mariannette Miller-Meeks,  
M.D.  
Member of Congress



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Martin Heinrich  
United States Senator



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Robert E. Latta  
Member of Congress



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Debbie Lesko  
Member of Congress



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Roger Williams  
Member of Congress



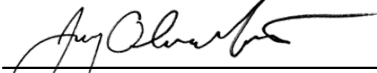
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Russ Fulcher  
Member of Congress



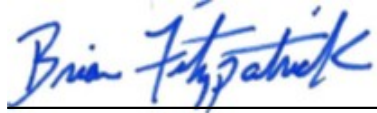
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Kirsten Gillibrand  
United States Senator



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Jay Obernolte  
Member of Congress



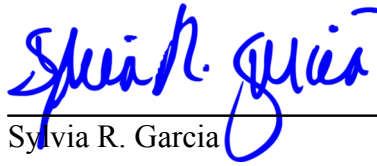
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Brian Fitzpatrick  
Member of Congress



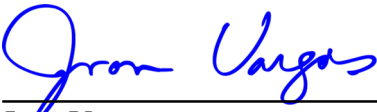
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Juan Ciscomani  
Member of Congress



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Sylvia R. Garcia  
Member of Congress



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Juan Vargas  
Member of Congress



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Gregory W. Meeks  
Member of Congress



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Darren Soto  
Member of Congress



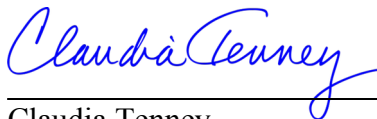
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Joyce Beatty  
Member of Congress



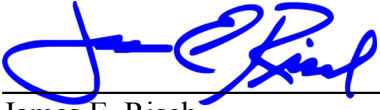
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Michael K. Simpson  
Member of Congress



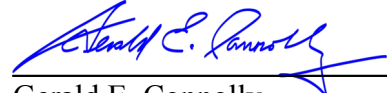
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Claudia Tenney  
Member of Congress



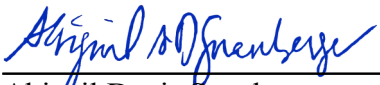
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James E. Risch  
United States Senator



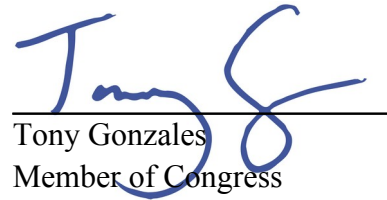
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Gerald E. Connolly  
Member of Congress



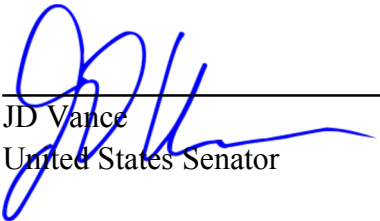
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Abigail Davis Spanberger  
Member of Congress



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Tony Gonzales  
Member of Congress



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JD Vance  
United States Senator



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Angie Craig  
Member of Congress



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James R. Baird  
Member of Congress



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Ann McLane Kuster  
Member of Congress



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John R. Carter  
Member of Congress



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Darrell Issa  
Member of Congress






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Steve Daines  
United States Senator



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Ted Budd  
United States Senator



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Patrick Ryan  
Member of Congress



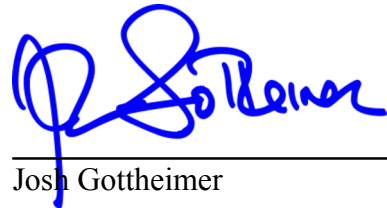
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Jake Ellzey  
Member of Congress



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Lizzie Fletcher  
Member of Congress



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Josh Gottheimer  
Member of Congress



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Thom Tillis  
United States Senator



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Nick LaLota  
Member of Congress



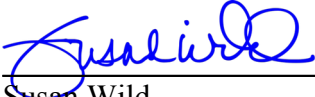
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Marsha Blackburn  
United States Senator



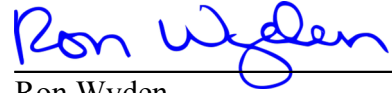
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Donald G. Davis  
Member of Congress



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Susan Wild  
Member of Congress



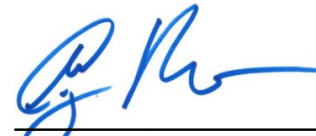
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Ron Wyden  
United States Senator



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Young Kim  
Member of Congress



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Guy Reschenthaler  
Member of Congress



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Paul A. Gosar  
Member of Congress



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Marcus J. Molinaro  
Member of Congress



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Steven Horsford  
Member of Congress



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Warren Davidson  
Member of Congress



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David Rouzer  
Member of Congress



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Mike Crapo  
United States Senator



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Joseph D. Morelle  
Member of Congress



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John Hickenlooper  
United States Senator



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Brian Higgins  
Member of Congress



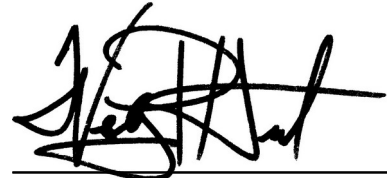
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Stephanie Bice  
Member of Congress



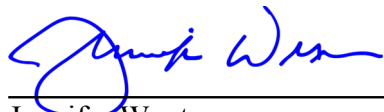
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Jake Auchincloss  
Member of Congress



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Wesley Hunt  
Member of Congress



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Jennifer Wexton  
Member of Congress



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Jim Jordan  
Member of Congress



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Dan Crenshaw  
Member of Congress



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Andy Biggs  
Member of Congress

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David G. Valadao  
Member of Congress

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Keith Self  
Member of Congress

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Kathy Castor  
Member of Congress

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Aumua Amata Coleman  
Radewagen  
Member of Congress

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Dina Titus  
Member of Congress

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Susie Lee  
Member of Congress

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Grace Meng  
Member of Congress

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Neal P. Dunn, M.D.  
Member of Congress

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Thomas H. Kean, Jr.  
Member of Congress

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Kay Granger  
Member of Congress



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Jennifer González-Colón  
Member of Congress



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Ami Bera, M.D.  
Member of Congress



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Jon Tester  
United States Senator



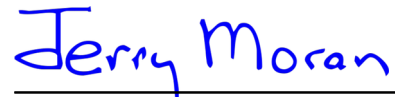
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Doug LaMalfa  
Member of Congress



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Brian Babin, D.D.S.  
Member of Congress



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Jerry Moran  
United States Senator



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Diana Harshbarger  
Member of Congress



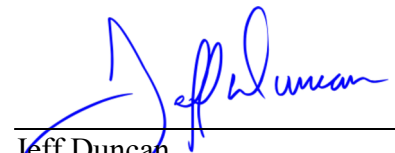
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Randy K. Weber, Sr.  
Member of Congress



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Mark R. Warner  
United States Senator



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Jeff Duncan  
Member of Congress



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Mike Braun  
United States Senator



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David P. Joyce  
Member of Congress

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Vicente Gonzalez  
Member of Congress



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Rich McCormick, MD, MBA  
Member of Congress



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Tom Cole  
Member of Congress



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Jeffrey A. Merkley  
United States Senator

Cc:  
Congressman Mike Johnson, Speaker of the House  
Senator Chuck Schumer, Senate Majority Leader  
Senator Mitch McConnell, Senate Minority Leader  
Congressman Hakeem Jeffries, House Minority Leader

