

United States Senate

WASHINGTON, DC 20510

November 20, 2019

The Honorable Mitch McConnell
Majority Leader
United States Senate
317 Russell Senate Office Building
Washington, D.C. 20510

The Honorable Charles E. Schumer
Minority Leader
United States Senate
322 Russell Senate Office Building
Washington, D.C. 20510

The Honorable Richard Shelby
Chairman
Senate Committee on Appropriations
Room S-128, U.S. Capitol
Washington, D.C. 20510

The Honorable Patrick Leahy
Vice Chairman
Senate Committee on Appropriations
Room S-146A, U.S. Capitol
Washington, D.C. 20510

The Honorable John Kennedy
Chairman
Subcommittee on Financial Services and
General Government
133 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Christopher A. Coons
Ranking Member
Subcommittee on Financial Services and
General Government
125 Hart Senate Office Building
Washington, D.C. 20510

Dear Leader McConnell, Chairman Shelby, Chairman Kennedy, Leader Schumer, Vice Chairman Leahy, and Ranking Member Coons:

As you finalize appropriations legislation for Fiscal Year 2020 (FY 2020) and begin conference discussions with your House counterparts, we respectfully ask that you accede to Section 749 of the House Financial Services and General Government Appropriations Act (H.R.3351), which provides an essential safeguard for federal employees' collective bargaining rights in response to the Trump Administration's sustained attacks on the federal workforce.

The Civil Service Reform Act (the Act) of 1978 codified federal employees' rights to form and join unions and engage in collective bargaining, stating that "labor organizations and collective bargaining in the civil service are in the public interest."¹ Unfortunately, over the past two years, the Trump Administration has sought to dismantle federal employee rights. In May 2018, President Trump issued three Executive Orders aimed at reducing official time, restricting collective bargaining, and obstructing the union grievance process.² After an initial District Court ruling enjoining many of the Executive Order provisions, the D.C. Circuit Court overruled the decision, holding that unions must first exhaust administrative remedies through the Federal Labor Relations Authority (FLRA). The Circuit Court denied a request to rehear the case, and the District Court's injunction on the Executive Orders expired on October 2, 2019, leaving agencies free to implement the contested provisions.³

¹ 5 U.S.C. § 7101

² *Judge Strikes Down Trump Executive Orders Limiting Federal Employee Union Bargaining*, Government Executive (August 25, 2018).

³ *Agencies May Now Enforce Trump's Controversial Workforce Orders*, Government Executive (Oct. 2, 2019).

Even before the injunction expired, OPM guidance encouraged agencies to bargain for proposals similar to the enjoined provisions.⁴ In order to do so, many agencies have resorted to circumventing the collective bargaining process altogether by engaging in “surface” bargaining – going through the bargaining process without meaningfully participating in negotiations – to reach the Federal Service Impasses Panel (FSIP), where the Trump-appointed panel has disproportionately ruled in favor of management.⁵

Other agencies have refused to negotiate outright.⁶ While unions challenged these and other bad-faith bargaining techniques, the Trump Administration has curtailed many of their remedies. For example, there is no General Counsel at FLRA to prosecute unfair labor practice charges. President Trump’s nominee to fill the position is significantly underqualified and has a history of crafting anti-union policies at the Department of Health and Human Services.⁷ Therefore, the Circuit Court’s ruling makes it unlikely that federal employee unions will receive meaningful or timely relief from the Trump Administration’s policies.

In June, the House passed its appropriations package with a provision to retroactively block agencies from implementing any collective bargaining agreement that has not been mutually and voluntarily agreed to by all parties, unless it was the result of binding arbitration. This will restore the collective bargaining process and require agencies to return to the bargaining table to engage in good-faith negotiations. Without this protection, unions will be locked into unreasonable and unfair contracts for the foreseeable future.

These actions are poised to cause long-term damage to the foundations of our civil service. With almost a third of federal workers eligible to retire in the next five years, it is more important than ever that the federal government focus on recruiting and retaining the best employees. Robust labor unions are a hallmark of competitive workplaces – they lead the fight for better benefits, protections, and working conditions. The Trump Administration’s anti-union agenda undermines the government’s ability to attract talented workers and demoralizes workers currently in public service. The Administration’s actions also imperil scientific integrity across agencies – lack of adequate union representation makes it easier for agencies to politicize scientific roles and silence dissenting opinions.

Furthermore, as the country’s largest unionized employer, the federal government sets the tone for labor-management relations across the country. At a time when the right to unionize in both the public and private sectors is increasingly under attack, we must affirm our support for workers and labor rights.

⁴ Memorandum for Heads of Executive Departments and Agencies, from Acting Director Margaret Weichert, “Additional Guidance Relating to Implementation of Executive Orders 13836, 13837, and 13839,” Office of Personnel Management (Nov. 8, 2018)

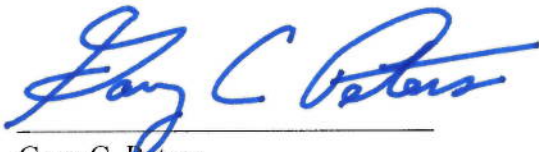
⁵ *House Appropriations Bill Would Block Impasses Panel from Imposing New Union Contracts*, Government Executive (July 2, 2019).

⁶ *EPA Unilaterally Imposes New Union Contract Slashing Telework, Easing Firing*, Government Executive (June 26, 2019); *Labor Agreement Forced on Education Dept. Employees Curtails Official Time, Cuts Employee Protections*, Government Executive (March 15, 2018).

⁷ *Trump’s Government Labor Pick Comes Accused of Union Violations*, Bloomberg Law (March 27, 2019).

We appreciate your attention to this matter. Please do not hesitate to contact us if you have any questions or require additional information.

Sincerely,



Gary C. Peters
Ranking Member
Senate Committee on Homeland Security
and Governmental Affairs



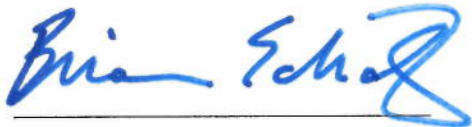
Sherrod Brown
United States Senator



Chris Van Hollen
United States Senator



Benjamin L. Cardin
United States Senator



Brian Schatz
United States Senator



Mazie K. Hirono
United States Senator



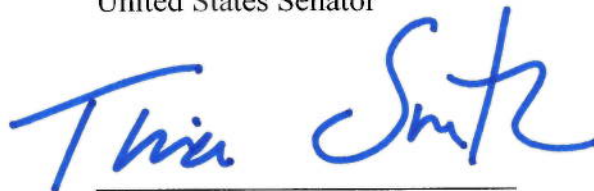
Richard Blumenthal
United States Senator



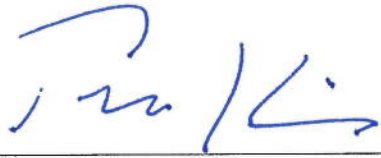
Tammy Baldwin
United States Senator



Cory A. Booker
United States Senator



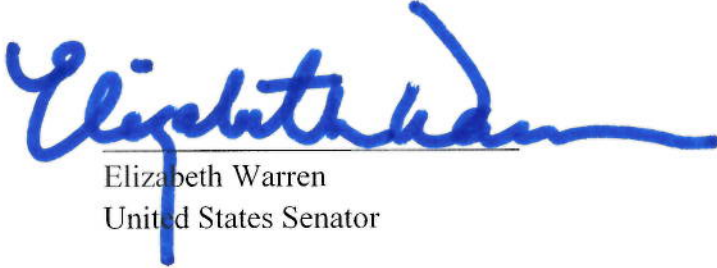
Tina Smith
United States Senator



Tim Kaine
United States Senator



Debbie Stabenow
United States Senator



Elizabeth Warren
United States Senator



Margaret Wood Hassan
United States Senator



Richard J. Durbin
United States Senator



Edward J. Markey
United States Senator



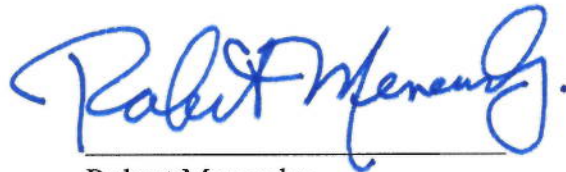
Sheldon Whitehouse
United States Senator



Kirsten Gillibrand
United States Senator



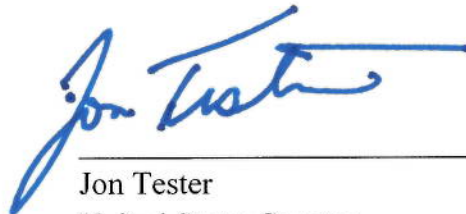
Tammy Duckworth
United States Senator



Robert Menendez
United States Senator



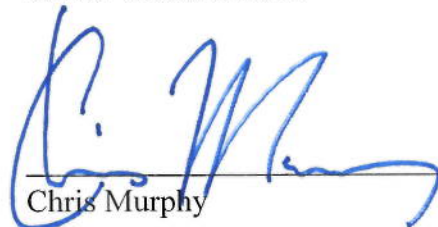
Amy Klobuchar
United States Senator



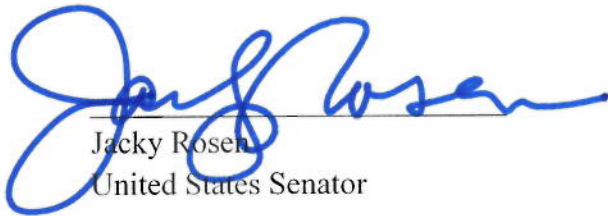
Jon Tester
United States Senator



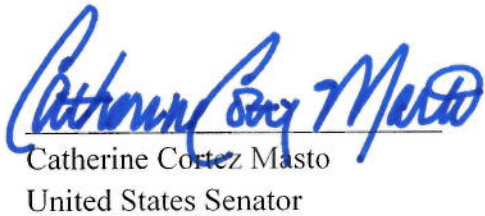
Jeanne Shaheen
United States Senator

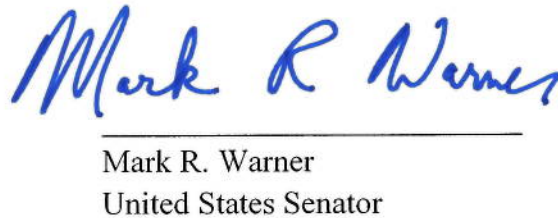


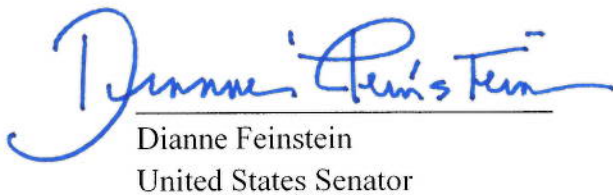
Chris Murphy
United States Senator

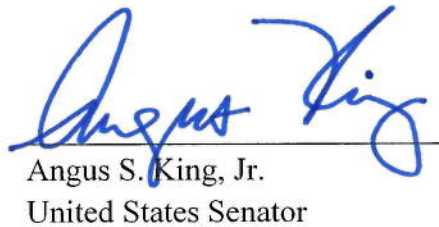

Jacky Rosen
United States Senator

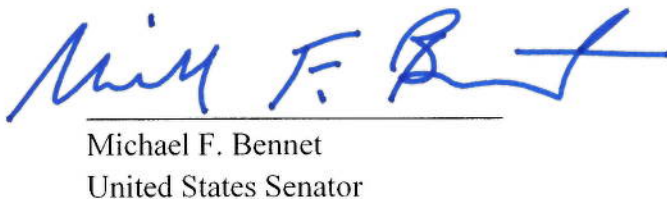

Kamala D. Harris
United States Senator

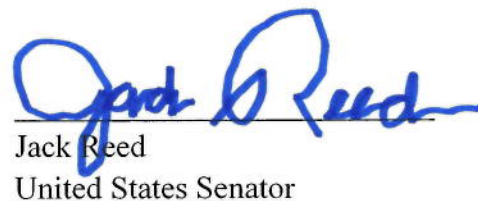

Catherine Cortez Masto
United States Senator

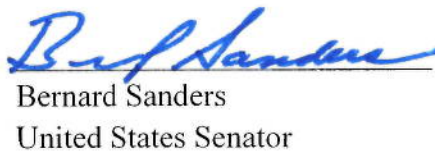

Mark R. Warner
United States Senator

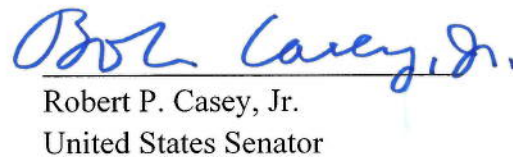

Dianne Feinstein
United States Senator

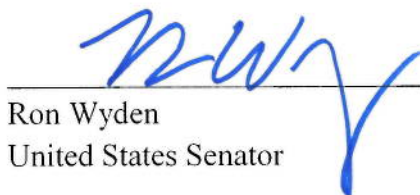

Angus S. King, Jr.
United States Senator

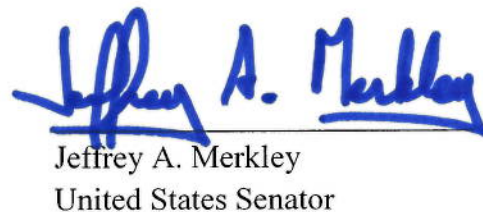

Michael F. Bennet
United States Senator

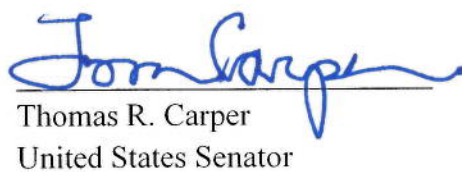

Jack Reed
United States Senator

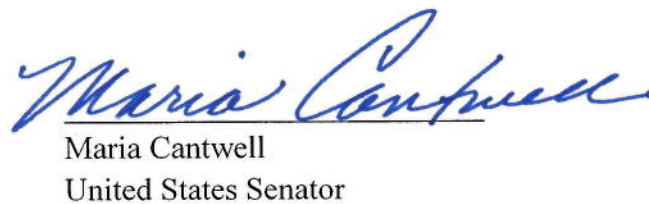

Bernard Sanders
United States Senator


Robert P. Casey, Jr.
United States Senator


Ron Wyden
United States Senator



Jeffrey A. Merkley
United States Senator


Thomas R. Carper
United States Senator

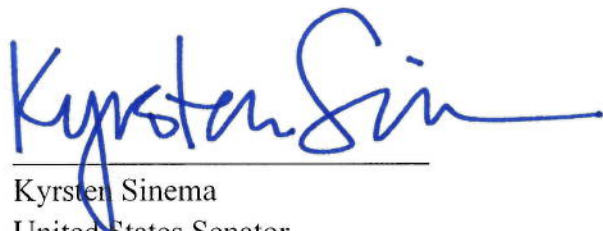

Maria Cantwell
United States Senator



Martin Heinrich
United States Senator



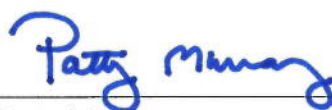
Tom Udall
United States Senator



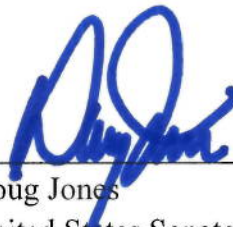
Kyrsten Sinema
United States Senator



Joe Manchin III
United States Senator



Patty Murray
United States Senator



Doug Jones
United States Senator