

United States Senate

WASHINGTON, DC 20510

March 31, 2023

The Honorable Martin Heinrich
Chairman
Appropriations Subcommittee on Agriculture,
Rural Development, FDA, and Related Agencies
129 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable John Hoeven
Ranking Member
Appropriations Subcommittee on Agriculture,
Rural Development, FDA, and Related Agencies
125 Hart Senate Office Building
Washington, D.C. 20510

Dear Chairman Heinrich and Ranking Member Hoeven:

As you consider Fiscal Year (FY) 2024 appropriations, we write to thank you for your outstanding past support for enforcement of key U.S. Department of Agriculture (USDA) animal welfare laws and to urge you to sustain this effort in FY 2024. Your leadership is crucial in helping to protect the welfare of millions of animals across the country.

As you know, the enforcement of animal welfare laws also benefits people. The enforcement of these laws decreases the sale of unhealthy pets by commercial breeders, improves the integrity of animal-based research, reduces risks of disease transmission and dangerous encounters involving animals in public exhibition, protects pet owners from tragic losses on airline flights, makes food safer for consumers, and improves slaughterhouse conditions for workers and animals alike. We ask the Committee to continue this important work by including the requests presented in this letter.

Animal and Plant Health Inspection Service (APHIS) / Animal Welfare Act (AWA) Enforcement

Summary: We request language to improve AWA enforcement at USDA.

Background: The AWA is the preeminent federal law for the protection of animals. USDA's Animal Care division currently has 112 inspectors and specialists (with 41 vacancies in the process of being filled) responsible for ensuring compliance with AWA standards at 16,853 sites, including commercial breeding facilities, laboratories, zoos, circuses, and airlines. We are concerned with USDA's inadequate enforcement in these industries in recent years.

In FY 2022, the USDA initiated 262 cases against AWA licensees, resulting in 204 warnings, 18 settlements, and 17 administrative orders. Seven licenses were suspended or revoked. While this was more than the previous five years, overall there has been a decline in AWA enforcement since 2010, when USDA initiated 874 cases, with 74 stipulated penalties. We urge APHIS to improve enforcement activity, especially by initiating more significant penalties, and to work more with local law enforcement and the Department of Justice.

For example, USDA inspectors have found repeated violations from the same breeders but have not taken any recent significant enforcement actions against chronic violators. We are also aware of licensees who have repeatedly denied access to their facilities for inspections (even before the pandemic) or interfered with information collection, and have not been cited.

Enforcement activity needs to be improved at research facilities as well. For example, in 2022, APHIS issued 5 warnings to and reached 2 settlement agreements with research facilities. But according to the Animal Care Public Search Tool, approximately 300 violations of the AWA were recorded on inspection reports of research facilities in 2022, with at least 50 considered critical (e.g., violations that had a serious effect on the health and well-being of an animal) or direct (violations that are also critical and are having a serious effect on the health and well-being of an animal at the time of inspection). We are concerned about the process for deciding which violations result in enforcement actions and why so few make it that far.

Trends are similar for licensed exhibitors, exotic animal breeders, and dealers. In just one example, an Ohio exotic animal breeder received 118 citations including 74 repeat, 27 direct, and eight critical citations since 2011, including in 2022 because “[y]oung skunks, 6-8 weeks old, are having their scent glands removed by the licensee without general anesthesia,” a procedure described by the inspector as “a major surgical procedure which produces permanent impairment of physical and physiological function, as defined by the Animal Welfare Act Regulations and Standards, with a high risk for complications.” While the USDA suspended the breeder’s license for 21 days in 2022 and has since filed an administrative complaint, it took over a decade of chronic, serious animal welfare violations before the agency pursued any meaningful enforcement.

In 2018, USDA issued guidance that allows ailing animals to be diagnosed over the phone without a physical veterinary examination or testing, which denies animals necessary care and puts the public at risk. These guidelines no longer require that euthanasia be carried out according to the American Veterinary Medical Association’s Guidelines for Euthanasia of Animals, which can lead to horrific cases such as a Kansas breeder who fatally shot 24 dogs, resulting in a suspension of their state license but no penalty from USDA.

In 2013, USDA issued a rule intended to close loopholes that allowed dog breeders to sell puppies online without a USDA license, but enforcement targeting online dealers has been inadequate. As a result, many online operations continue to sell puppies sight-unseen to consumers without the necessary USDA licensing and oversight.

We are grateful that the FY 2023 omnibus requires the agency hereafter to document every observed AWA violation on official inspection reports, and that the agency followed FY 2023 House and Senate committee report directives by announcing in July 2022 an end to USDA’s “Teachable Moments” program. We are also pleased that the Department of Justice was able to work closely with the agency on the Envigo case, which resulted in hundreds of mistreated beagles being removed and placed with adoption organizations. We hope that FY 2024 language will encourage USDA to further improve its AWA enforcement efforts.

Requested Bill Language:

“The Secretary shall ensure that appropriate enforcement action in the form of penalties or case referral to the Office of General Counsel or the Department of Justice or both is taken when a regulated facility violates the Animal Welfare Act (7 U.S.C. 2131-2159) as documented on an inspection report, with due consideration to the appropriateness of the penalty with respect to the size of the business of

the person involved, the gravity of the violation, the person's good faith, and the history of previous violations, as provided in 7 U.S.C. Section 2149(b).

The Secretary shall ensure that any interference with or failure to allow access for an inspection under the Animal Welfare Act, 7 U.S.C. Sections 2131-2159, is documented on an inspection report.

The Secretary shall ensure that all dealers selling dogs, cats, and other covered animals online have the necessary license pursuant to Animal Welfare Act, 7 U.S.C. Sections 2131-2159, as required under 78 Fed. Reg. 57227.

The Secretary of Agriculture shall enter into a memorandum of understanding with the U.S. Attorney General to encourage greater collaboration on Animal Welfare Act enforcement and ensure that the Department of Justice has access to evidence needed to initiate cases."

Requested Report Language:

"Case Referrals for Animal Welfare Act (AWA) Violations.—The Committee is concerned that USDA is not fully utilizing its enforcement capabilities, particularly for chronic violators of the AWA. There has been an overall decline in AWA enforcement since 2010 when USDA initiated 874 cases and 74 stipulated penalties. By 2021, enforcement dropped to 262 initiated cases of which 18 resulted in settlements and 17 with administrative orders. The Committee directs USDA to use its full enforcement capabilities under the AWA including referring cases to the Office of General Counsel, the Department of Justice or both, when appropriate according to the factors the agency must consider under 7 U.S.C. Section 2149(b)."

APHIS / Horse Protection Act (HPA) Enforcement

Summary: We request no less than the FY 2023 level of \$4.096 million and report language to direct stronger enforcement of the Horse Protection Act.

Background: We appreciate that Congress provided \$4.096 million in FY 2023 for USDA to strengthen enforcement of the HPA of 1970. This law aimed to end the abusive practice of "soring," in which trainers deliberately inflict pain on Tennessee Walking Horses' hooves and legs to create an artificially exaggerated, high-stepping gait in order to gain an unfair competitive advantage at horse shows. The practice of soring includes such appalling tactics as: applying caustic chemicals and allowing those chemicals to "cook" deep into the horse's flesh for days, attaching heavy chains to strike against the sore legs, cutting the hooves down to expose the live tissue, jamming hard objects into the sensitive areas of the hooves, and using salicylic acid or other painful substances to slough off scarred tissue or numbing agents to disguise the sore areas. A 2010 Office of the Inspector General (OIG) report documented serious conflicts of interest and other significant problems with industry self-policing through Horse Industry Organizations (HIOs), on which the APHIS inspection program still relies (the agency pledged in response to the 2010 OIG report to cease relying on industry self-policing).

In January 2017, the USDA announced final regulations to eliminate industry self-policing and institute other reforms needed to end soring. These rules (Docket No. APHIS-2011-0009) received more than 100,000 public comments in support, including bipartisan letters signed by 182 Representatives and 42 Senators. Unfortunately, the regulations were withdrawn soon after.

In January 2021, the National Academies of Sciences, Engineering, and Medicine (NASEM) issued a report that criticized the industry self-policing system and made recommendations consistent with the 2017 regulations. The NASEM report called for greater use of technologies such as thermography, prohibited substance testing, and blood testing, as well as urging that only veterinarians be allowed to inspect the horses. These recommendations depend on adequate agency resources. With current funding, Animal Care was only able to attend approximately 18 percent of the 229 HPA events held in FY 2021.

In December 2021, the USDA announced plans to propose a new and improved HPA rule to consider the NASEM findings. We were pleased that the agency stated its intention to issue the new rule expeditiously and identified this as a top regulatory priority; however, we remain concerned with the ongoing delays in finally releasing this long-awaited rule.

Requested Funding: We request no less than the FY 2023 level of \$4.096 million in the bill to support needed enforcement of the HPA.

Requested Report Language:

“The Committee provides \$4,096,000 for enforcement of the Horse Protection Act of 1970, as amended (15 U.S.C. 1831), and reminds the Secretary that Congress granted the agency primary responsibility to enforce this law. The Committee urges the Secretary to issue the new proposed HPA rule expeditiously, consistent with the agency’s announced intentions in December 2021, and to finalize and publish the new final rule by December 31, 2023. The Committee further urges the Secretary to ensure that the new rule includes at a minimum all the key elements of the final rule, “Horse Protection; Licensing of Designated Qualified Persons and Other Amendments” [Docket No. APHIS-2011-0009], that was finalized and displayed in advance public notice in the Federal Register on January 19, 2017.”

APHIS / Protecting Animals with Shelter Implementation

Summary: We request \$3 million for grants to provide shelter options for domestic violence survivors with companion animals.

Background: We appreciate that Congress provided \$3 million in FY 2023 to continue implementing Section 12502 of the 2018 Farm Bill (P.L. 115-334), which authorized a new grant program to provide emergency and transitional shelter options for domestic violence survivors with companion animals. This language was previously introduced in the House as the Pet and Women Safety (PAWS) Act.

Research shows that abusers often threaten or inflict violence on pets as a way to intimidate or exert control over their partners and prevent them from leaving. This program will ensure that more domestic violence service providers are able to accommodate pets or arrange for pet shelter on behalf of survivors.

Requested Funding: We request \$3 million in the FY 2024 Appropriations bill to continue implementing the PAWS grant program authorized in Section 12502 of P.L. 115-334.

Requested Report Language:

“The Committee directs the Secretary of Agriculture to continue coordinating with the Departments of Justice, Housing and Urban Development, and Health and Human Services to efficiently implement the

grant program for providing emergency and transitional shelter options for domestic violence survivors with companion animals.”

Food and Drug Administration / Reducing Animal Testing and Advancing Nonanimal Methods

Summary: We request no less than the FY 2023 level of \$5 million and report language to ensure FDA’s judicious and impactful use of funding to reduce animal testing and advance alternative methods, and request details related to these efforts.

Background: We are grateful that Congress provided \$5 million in the FY 2023 omnibus for FDA to reduce animal testing through alternative methods, demonstrating a commitment to getting safer products to consumers faster. Nonanimal alternatives are often quicker, less costly to perform, and more reliable in providing information relevant to human safety, as well as being more humane. We are concerned about a lack of performance goals and metrics to measure FDA’s progress to reduce animal use and implement alternative methods. We request further details on how the agency will maximize the impact of the funds provided in FY 2023 and the requested FY 2024 funds through establishment of a New Alternative Methods Program in the Commissioner’s office. We hope these appropriated funds will not be allocated to new animal studies, such as to compare information from those tests to nonanimal methods; only existing animal data should be used for this comparative assessment.

Requested Funding: We request no less than the FY 2023 level of \$5 million.

Requested Report Language:

“The Committee directs FDA to efficiently and expeditiously utilize existing funds to reduce animal testing and advance alternative methods in a measurable and impactful way. The agency is further directed to provide a report to the Committee within 90 days of enactment that provides details on the status of forming the New Alternative Methods Program in the Commissioner’s office, including but not limited to a description of program goals and staffing levels by position classification; FDA’s priority areas for reducing animal use and advancing alternatives, including goals, timelines and funding associated with each of these identified priorities; the metrics the agency will use to measure impact; and how the agency will communicate information regarding acceptance of alternative methods to the regulated community. The agency should not use funding to carry out new animal testing, including to compare the use of animals to alternative methods, but instead use existing animal data.”

Food Safety and Inspection Service / Humane Methods of Slaughter Act (HMSA) Enforcement

Summary: We request bill language to ensure strengthened HMSA enforcement in livestock slaughter establishments and compliance with Good Commercial Practices in USDA-inspected poultry slaughter establishments.

Background: We appreciate the Committee’s inclusion of FY 2023 bill and report language regarding humane slaughter enforcement. USDA oversight of humane handling rules for animals at slaughter facilities is vital for animal welfare as well as food safety. Effective day-to-day enforcement can prevent abuses, reduce food safety risks, and avoid recalls of meat and egg products.

USDA has documented a variety of serious humane handling problems at poultry slaughter plants, including: birds drowning in scalding tanks, disposal of live birds under piles of dead birds, birds dying

due to suffocation and/or prolonged exposure to extreme weather, and mechanical problems resulting in injury and death. In 2005, USDA issued a notice to slaughter establishments that acknowledged the link between inhumane treatment of birds and adulterated poultry products, and referenced industry “Good Commercial Practices” (GCP) for bird handling. Subsequently, USDA inspectors began conducting verification of these requirements for live bird handling in every federally inspected slaughter plant. However, inspector oversight appears to vary widely at poultry slaughter establishments. According to USDA enforcement records, between 2018 and 2020, nearly one-half (42 percent) of federally inspected poultry plants were not issued any enforcement records documenting GCP compliance.

Requested Bill Language:

“No fewer than 165 full-time equivalent positions shall be employed during fiscal year 2024 for purposes dedicated solely to inspections and enforcement related to the Humane Methods of Slaughter Act. This number is in addition to the Humane Handling Enforcement Coordinator and District Veterinary Medical Specialist positions.”

Requested Report Language:

“The Food Safety and Inspection Service (FSIS) shall ensure that all inspection personnel conducting humane handling verification procedures receive robust initial training and periodic refresher training on the FSIS humane handling and slaughter regulations and directives. This includes handling of non-ambulatory disabled animals, as well as proper use of the Humane Activities Tracking System to ensure humane handling of animals as they arrive and are offloaded and handled in ante-mortem holding pens, suspect pens, chutes, stunning areas, and on the processing line. The Committee directs the agency to continue preparation and online publication of the Humane Handling Quarterly Reports, to include: (1) the number of humane handling verification procedures performed, (2) the number of administrative enforcement actions taken, (3) time spent on Humane Handling Activities Tracking System activities, and (4) comparisons of these measurements by plant size and FSIS district.

The Committee recognizes that the humane handling of birds at slaughter according to Good Commercial Practices reduces the occurrence of adulterated poultry products in the marketplace and can improve the treatment of birds at slaughter. The Committee awaits the Department’s briefing requested in the fiscal year 2022 and 2023 reports on documented instances where establishments lost control of their processes for handling birds, and consequently were not operating in accordance with GCPs. Further, the Committee directs the USDA to track the number of inspector hours spent on GCP verification activities intended to reduce instances of adulteration using its existing Humane Activities Tracking System or other appropriate method.”

OIG / Animal Fighting Enforcement

Summary: We request language calling for the OIG to strengthen efforts to combat illegal animal fighting activity and to assess USDA’s enforcement of key animal welfare laws.

Background: Congress first prohibited most interstate and foreign commerce of animals for fighting in 1976, established felony penalties in 2007, and strengthened the law as part of the last four Farm Bills. We hope the Committee will urge USDA to take its responsibility seriously to enforce this law by working with state and local agencies to complement their efforts to address these barbaric practices.

Animal fighting often involves animals being drugged to heighten their aggression and forced to keep fighting even after they've suffered grievous injuries. Dogs bred and trained to fight often endanger public safety, and some dogfighters steal pets to use as bait for training their dogs. Cockfighting was linked to an outbreak of Exotic Newcastle Disease in 2002-2003 that cost taxpayers more than \$200 million to contain. In 2018, we saw a return of this virulent disease among backyard “exhibition” chickens, which law enforcement can attest are typically game-fowl used in cockfighting, and this outbreak crossed over to the poultry sector. Cockfighting has also been linked to the death of a number of people in Asia reportedly exposed through the fighting activity to bird flu.

Requested Report Language:

“The Committee is concerned about illegal animal fighting activity that subjects animals to cruel conditions and has the potential to spread illnesses such as virulent Newcastle disease and avian flu. The OIG is encouraged to increase its efforts to pursue animal fighting cases even if related concerns, such as money laundering and illegal weapons, have not yet been determined to be at issue before an investigation is opened. OIG is also encouraged to work with USPS and DOJ to examine the prevalence of the illegal shipment of game-fowl used in cockfighting. The Committee also encourages the OIG to audit and investigate USDA enforcement of the Animal Welfare Act and the Horse Protection Act to help improve compliance with these important laws. This should include finalizing the reopening of the audit on the Animal Care Program Oversight of Dog Breeders to allow completion of in-person visits. Additionally, the Committee is concerned about the lack of meaningful enforcement of the AWA and HPA and requests that these audits should also examine what barriers exist to full enforcement of both Acts, and what if any steps can be taken within APHIS’ Animal Care and Investigative and Enforcement Services programs to ensure that the regulated community is held accountable for violations of these Acts.”

National Institute of Food and Agriculture / National Veterinary Medical Services Act

Summary: We request \$10.5 million for the Veterinary Medicine Loan Repayment Program (VMLRP) (National Veterinary Medical Service Act, P.L. 108-161).

Background: We appreciate that the Committee has recognized the importance of ensuring access to timely veterinary care, which is an animal welfare and animal health priority. VMLRP incentivizes veterinarians to fill vacancies in federally-designated veterinary shortage areas across the country, to help ensure adequate oversight of humane handling and food safety rules, defend against bioterrorism, and address myriad public health issues including those associated with parasites, rabies, chronic wasting disease, pet overpopulation, and zoonotic disease surveillance.

VMLRP offers educational loan assistance in exchange for at least three years of service in a shortage area. For FY 2023, USDA announced 237 veterinary shortage areas in 47 states, up from the 226 shortage areas designated for FY 2022. Student debt is a major contributor to veterinary shortages and can present a challenge in attracting veterinarians to practice in rural and underserved areas. In 2022, 82 percent of U.S. veterinary college graduates accumulated debt at an average of \$179,505 per student. While the Committee has been generous in its support of VMLRP, additional funding for the program is needed to close gaps across the country. Each year, VMLRP receives ample applications but veterinary

shortage areas remain unfilled due to budget limitations. As of the 2021 application cycle, 1,775 veterinarians applied for assistance under this program, yet only 630 awards have been accepted.

Requested Funding: We request \$10.5 million for the Veterinary Medicine Loan Repayment Program and continued support for the Veterinary Services Grant Program.

APHIS / Emergency Preparedness and Response / Animal Care

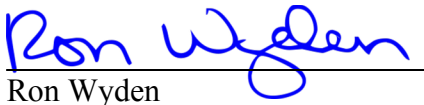
Summary: We request \$1.45 million for Animal Care under APHIS' Emergency Preparedness and Response line item.

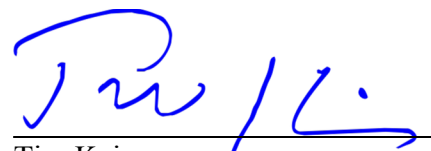
Background: APHIS Emergency Preparedness and Response funds enable the Animal Care program to support a cooperative agreement on hazard preparedness and response for zoos and aquariums, facilitate networking efforts for state emergency agriculture officials, update Best Practices Documents for animal emergency management, and conduct outreach and implement the final rule issued in December 2021 following a directive in the FY 2021 omnibus (86 Fed Reg 68533), which requires emergency contingency plans for all facilities regulated under the Animal Welfare Act.

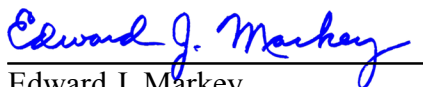
Requested Funding: We request \$1.45 million for Animal Care under APHIS' Emergency Preparedness and Response line item.

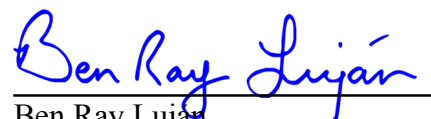
Thank you for your time and consideration of our requests.

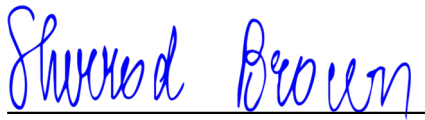
Sincerely,


Ron Wyden
United States Senator

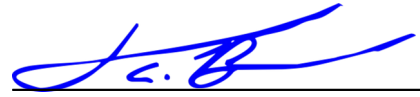

Tim Kaine
United States Senator


Edward J. Markey
United States Senator


Ben Ray Lujan
United States Senator



Sherrod Brown
United States Senator



Cory A. Booker
United States Senator



Elizabeth Warren
United States Senator



Christopher S. Murphy
United States Senator



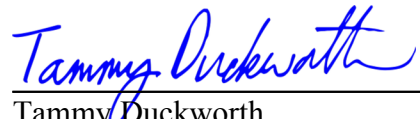
Thomas R. Carper
United States Senator



Alex Padilla
United States Senator



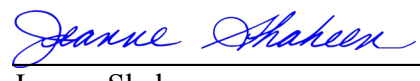
John Fetterman
United States Senator



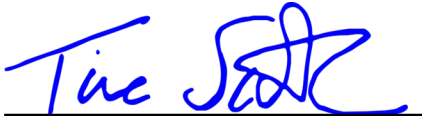
Tammy Duckworth
United States Senator



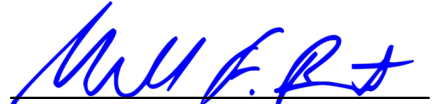
John Hickenlooper
United States Senator



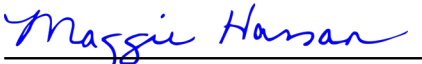
Jeanne Shaheen
United States Senator



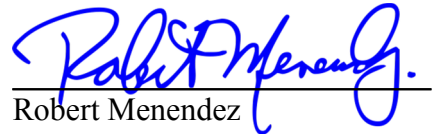
Tina Smith
United States Senator



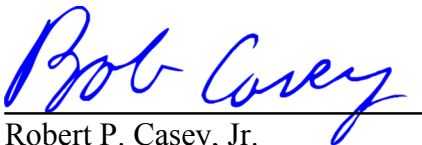
Michael F. Bennet
United States Senator



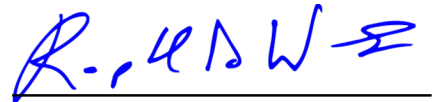
Margaret Wood Hassan
United States Senator



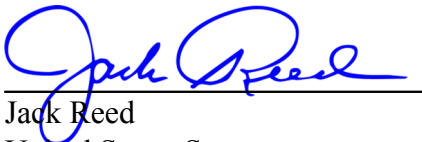
Robert Menendez
United States Senator



Robert P. Casey, Jr.
United States Senator



Raphael Warnock
United States Senator



Jack Reed
United States Senator



Bernard Sanders
United States Senator



Maria Cantwell
United States Senator



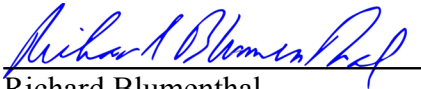
Kirsten Gillibrand
United States Senator



Sheldon Whitehouse
United States Senator



Kyrsten Sinema
United States Senator



Richard Blumenthal
United States Senator



Chris Van Hollen
United States Senator



Christopher A. Coons
United States Senator



Gary C. Peters
United States Senator



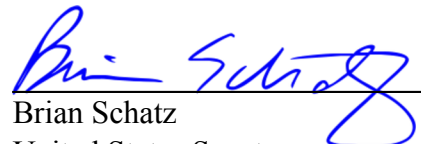
Jacky Rosen
United States Senator



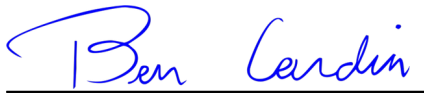
Richard J. Durbin
United States Senator





Tammy Baldwin
United States Senator




Brian Schatz
United States Senator

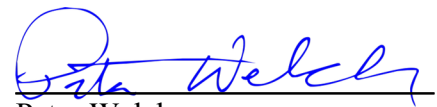

Benjamin L. Cardin
United States Senator



Amy Klobuchar
United States Senator


Catherine Cortez Masto
United States Senator



Jeffrey A. Merkley
United States Senator


Jon Ossoff
United States Senator


Peter Welch
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United States Senator
Chairman, Committee on
Agriculture, Nutrition, and
Forestry


Mazie K. Hirono
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United States Senator