

# United States Senate

WASHINGTON, DC 20510

May 8, 2024

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) 2025 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 2025. 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 125 inspectors and specialists (with 21 vacancies in the process of being filled) responsible for ensuring compliance with the AWA's minimum standards of care at 17,812 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, APHIS documented more than 3,000 AWA violations and observed others which, due to agency policies, were not formally reported. In FY 2023, only nine USDA-licensed facilities had their licenses revoked and eight new license applications were denied. Since 2020, there have only been five AWA enforcement cases brought by the USDA working collaboratively with the Department of Justice. While the agency is beginning to address procedural reforms directed in the report language accompanying the FY 2023 Consolidated

Appropriations Act, we urge APHIS to accelerate its efforts to improve enforcement activity, especially by initiating more significant penalties and working more with the Department of Justice and local law enforcement.

We are concerned about licensees who deny access to their facilities for inspections, pretend not to be available, or otherwise interfere with information collection, and face no meaningful penalty. We are also concerned about 2018 USDA guidance that allows animals found ailing at inspections to be diagnosed over the phone without a physical veterinary examination or testing (denying animals necessary care and putting the public at risk) and that no longer requires euthanasia to be carried out according to the American Veterinary Medical Association's Guidelines for Euthanasia of Animals.

Due to inadequate enforcement of a 2013 USDA rule addressing online puppy sales, many online operations continue to sell puppies sight-unseen to consumers without the necessary USDA licensing and oversight. The lack of enforcement often leads to inhumane treatment of dogs and the sale of puppies with serious health or behavioral problems.

On July 18, 2023, USDA announced plans for hiring an independent third-party contractor to complete a comprehensive review of the Animal Care program. The USDA subsequently provided information in January 2024 that this would be a phased review spanning two years, examining the AWA, Horse Protection Act, and other animal welfare laws to determine trends, partnerships, and gaps in enforcement, with a stakeholder analysis and an internal agency review.

We are grateful that the FY 2023 omnibus bill 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 the USDA's "Teachable Moments" program. Neither that program nor any other should be used to obscure findings during inspections.

It also remains essential for the USDA to be fully transparent to the public by ensuring that all enforcement actions – including official warning letters, administrative complaints, stipulations, and consent decisions – are publicly available on the USDA's website, consistent with the permanent directive enacted in the FY 2020 omnibus (P.L. 116-94, Sec. 788(b)).

**Requested Bill Language:**

*"The Secretary of Agriculture shall continue the March 2024 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:**

*"Animal Welfare.—The Committee is concerned about APHIS's Animal Care program and continued low enforcement related to violations of the Animal Welfare Act. The Committee directs the agency to reform its current licensing and enforcement scheme. This includes, but is*

*not limited to: ensuring consistent, thorough, unannounced inspections on a regular basis; ensuring each failure to allow access for inspection and each violation or failure to comply with animal welfare standards is documented on an inspection report; and, requiring that inspection reports, which identify violations or failures of compliance, be shared with relevant local, state, and federal agencies.*

*The Committee continues to encourage APHIS to use its full enforcement capabilities under the AWA against chronic violators of the AWA. The Committee directs the agency to update the Committee within 60 days of enactment of the Act on AWA enforcement activities, including the number of cases referred to the Office of the General Counsel, the Department of Justice, or both, when appropriate. The Secretary of Agriculture shall continue the March 2024 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.*

*The Committee directs APHIS to ensure that all official warning letters, administrative complaints, stipulations, and consent decisions are made publicly available in a searchable format, consistent with 7 U.S.C. § 2146a.*

*The Committee is also concerned about the lack of enforcement of the law with respect to online dog dealers and other types of pet dealers, which has allowed many online operations to continue selling puppies without the necessary USDA licensing under the AWA. The Secretary is directed to make a priority the enforcement of the 2013 rule that requires that dealers who are selling animals sight-unseen to consumers must have the necessary license to do so.*

*In July 2023, USDA announced an independent review of the Animal Care program by a third-party entity. The second phase of this comprehensive review is stakeholder analysis. The Committee urges the Secretary to ensure that this phase includes input from Congress and expert animal protection organizations, and that APHIS continues to strengthen its AWA enforcement efforts while this review is underway.”*

### **APHIS / Horse Protection Act (HPA) Enforcement**

**Summary:** We request in the bill \$4.166 million (the amount requested in the President’s Budget for FY 2025) and no less than the FY 2023 level of \$4.096 million, with 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 sores areas.

In January 2017, the USDA announced final regulations, following a 2010 audit by USDA's Inspector General and subsequent undercover investigations of top trainers and owners, 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 August 2023, the USDA published a revised proposed rule "that aims to strengthen regulations and modernize APHIS' approach to this issue." This proposal draws upon a January 2021 National Academies of Sciences, Engineering, and Medicine (NASEM) report that criticized the industry self-policing system, called for greater use of technologies such as thermography, testing for prohibited substances, and blood testing, and recommended that only veterinarians be allowed to inspect the horses. We urge the agency to swiftly finalize and implement this long-awaited rule, which received more than 115,000 public comments in support.

Animal Care was able to attend approximately 37% of the 217 HPA events held in FY 2023. An appropriation at the requested level will help ensure that this program can address the NASEM recommendations and doesn't lose ground in meeting the need for additional advanced detection equipment, skilled inspectors, training, and security (to address threats of violence against inspectors), as well as robust implementation of the proposed rule.

**Requested Funding:** We request \$4.166 million and 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 \$4,166,000 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, including the training of all inspectors. The Committee urges the Secretary to publish and implement a final version of the August 2023 proposed HPA rule expeditiously, consistent with the agency's announced intentions in December 2021 to make 'a new and improved HPA proposal a top regulatory priority.' The Committee further urges the Secretary to ensure that the final 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. The Committee directs APHIS to ensure that all official warning letters, administrative complaints, stipulations, and consent decisions are made publicly available in a searchable format, consistent with 7 U.S.C. § 2146a."*

### **Office of General Counsel (OGC) / AWA and HPA Enforcement**

**Summary:** We request the prioritization of AWA and HPA enforcement by USDA's Office of General Counsel.

**Background:** Robust enforcement of the Animal Welfare Act and the Horse Protection Act depends on the Office of General Counsel pursuing cases where the health and well-being of an animal is impacted. We urge OGC to give priority to this important work.

**Requested Report Language:**

*"The Committee encourages the OGC to utilize its budget to give priority to enforcement of the Animal Welfare Act and the Horse Protection Act and to pursue meaningful and swift penalties against violators of these laws."*

### **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 2024 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 enables more domestic violence service providers to accommodate pets or arrange for pet shelter on behalf of survivors.

PAWS grant recipients have been geographically diverse, spanning 23 states (AK, AR, AZ, CA, CT, FL, HI, IL, KY, MD, MO, MN, MT, NE, NC, NV, NY, OH, OK, PA, TN, TX, and WI) during FY 2020-2023, and grant applications have consistently exceeded the program's available funds.

**Requested Funding:** We request \$3 million in the FY 2025 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 / Eliminating Unnecessary Animal Testing and Advancing Nonanimal Alternative Methods**

**Summary:** We request report language to ensure FDA’s judicious and impactful use of funding to eliminate unnecessary animal testing and advance nonanimal alternative methods, and \$5 million to sustain the New Alternative Methods program.

**Background:** Congress provided \$5 million in the FY 2023 omnibus to support FDA’s work to improve predictivity of human response to FDA-regulated products, signaling support for the agency’s efforts to develop and qualify nonanimal alternative methods for regulatory use that can replace, reduce and refine animal testing, and improve predictivity of nonclinical testing. This will streamline the development of FDA-regulated products and bring them to the U.S. public and patients more rapidly and more efficiently while assuring they are safe and effective. Nonanimal alternative methods are often quicker, less costly to perform, and more reliable in providing information relevant to human safety, as well as being more humane.

We remain concerned that a lack of clarity exists as to what nonanimal alternative methods have been accepted for regulatory use, and that FDA’s current guidance documents, regulations and public facing information present contradictions – simultaneously supporting a move away from animal testing while implying to industry such testing must be done for product approval. To ensure the judicious and impactful use of this funding, the agency must amend its regulations and guidance documents to clarify the acceptance of nonanimal alternative methods.

Additionally, these appropriated funds should not be allocated to new animal studies, such as to compare information from those tests to nonanimal alternative methods; only existing animal data should be used for this comparative assessment when human data are not available. Nonanimal alternative methods have particular promise in developing treatments for rare diseases that often don’t exist in animals, and we encourage the agency to prioritize the acceptance of such methods in these areas.

### **Requested Report Language:**

*“The Committee directs FDA to efficiently and expeditiously utilize existing funds to eliminate animal testing and advance new alternative methods (NAMs) in a measurable and impactful way. In addition, FDA is directed to continue to provide \$5,000,000 to support the New Alternative Methods Program. This program is responsible for furthering the development, qualification, and implementation of nonanimal methods for regulatory purposes. The agency is further directed to provide to the Committee within 90 days of enactment a report on the status of work within the New Alternative Methods Program in the Commissioner’s office, including a description of program goals and staffing levels by position classification.*

*To encourage the use of NAMs by industry, the Committee directs FDA to amend its current regulations and all relevant guidance documents to make clear that animal tests are not required to gain approval for new drugs.*

*Additionally, the Committee directs that FDA make publicly available, in a centrally housed location, information about what new alternative methods are currently accepted for regulatory use, along with what gaps and areas of concern are underserved by current nonclinical testing approaches.*

*The Committee strongly recommends considering using nonanimal alternative methods in developing and evaluating treatments for rare diseases in which human-biology-based models are vital, given that many of these diseases do not naturally occur in animals.*

*The FDA should not use these funds to carry out new animal testing. Whenever possible, human data should be used to assess the accuracy of nonanimal alternative methods. In the absence of human data, only existing animal data should be used to conduct a comparative assessment of nonanimal alternative methods.”*

### **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 2024 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 compliance with 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 2020 and 2022, nearly one-half (45 percent) of federally inspected poultry plants were not issued any enforcement records documenting GCP compliance.

**Requested Bill Language:**

*“Provided further, That no fewer than 165 full-time equivalent positions shall be employed during fiscal year 2025 for purposes dedicated solely to inspections and enforcement related to the Humane Methods of Slaughter Act (7 U.S.C. 1901 et seq.).”*

**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 also is cognizant that current oversight of bird handling is inconsistent at USDA-inspected slaughter plants, with no enforcement records issued by USDA inspection personnel documenting compliance with GCP at nearly one-half of inspected plants between 2020 and 2022. Therefore, the Committee directs the USDA to track and publish 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.

**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 combat this illegal activity and to increase its efforts to investigate dogfighting and cockfighting operations as soon as there is any evidence of such illegal activity. The OIG is also encouraged to work with federal partners like the U.S. Postal Service and U.S. Department of Justice 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 the completion of an in-depth examination of APHIS’ oversight of dog breeders with the number of in-person visits originally planned. 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 USDA’s Office of General Counsel and APHIS’ Animal Care and Investigative and Enforcement Services 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 and animal welfare 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 2024, USDA announced 240 veterinary shortage areas in 47 states, up from the 237 shortage areas designated for FY 2023. Student debt is a major contributor to veterinary shortages and can present a challenge in attracting veterinarians to practice in rural and urban underserved areas. In 2023, 83 percent of U.S. veterinary college graduates accumulated debt at an average of \$185,486 per student. While the Committee has been generous in its support of VMLRP, additional funding for the program is needed to close gaps in underserved areas across the country. Each year, VMLRP receives ample applications but veterinary shortage areas remain unfilled due to budget limitations. As of the 2022 application cycle, 2,061 veterinarians applied for assistance under this program, yet only 795 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.

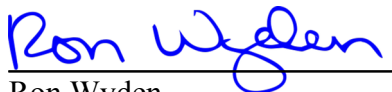
**General Provisions / No Inclusion of Ending Agricultural Trade Suppression (EATS) Act or Related Legislation**

**Request:** We request that no riders be included based on the EATS Act or related language to undermine state or local laws regarding agricultural production.

We urge that the FY 2025 bill not contain any provisions from the EATS Act (S. 2019) or any other language to undermine state or local laws regarding agricultural production. The EATS Act has generated enormous controversy because it could harm America's small farmers, threaten numerous state laws, and infringe on the fundamental rights of states to establish laws and regulations within their own borders. Opposition to the EATS Act and related legislation is bipartisan and widespread, as demonstrated by letters from 172 Representatives and 30 Senators spanning 35 states and a diverse set of over 5,000 opponents, including organizations ranging from the Sierra Club to FreedomWorks, hundreds of veterinarians, and more than 4,000 farms across the country.

Thank you for your time and consideration of our requests.

Sincerely,



Ron Wyden  
United States Senator



Robert P. Casey, Jr.  
United States Senator



Maria Cantwell  
United States Senator



Christopher S. Murphy  
United States Senator



Cory A. Booker  
United States Senator



Tammy Duckworth  
United States Senator



Kirsten Gillibrand  
United States Senator



Sheldon Whitehouse  
United States Senator



Chris Van Hollen  
United States Senator



Jeffrey A. Merkley  
United States Senator



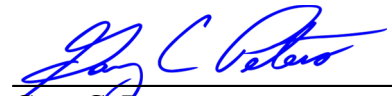
Peter Welch  
United States Senator



Alex Padilla  
United States Senator



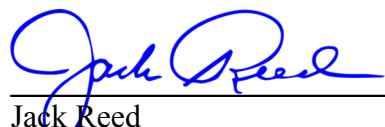
Christopher A. Coons  
United States Senator



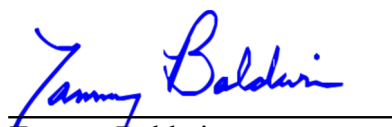
Gary C. Peters  
United States Senator



Thomas R. Carper  
United States Senator



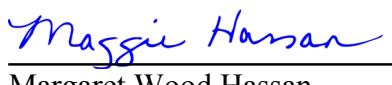
Jack Reed  
United States Senator



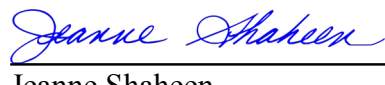
Tammy Baldwin  
United States Senator



Bernard Sanders  
United States Senator



Margaret Wood Hassan  
United States Senator



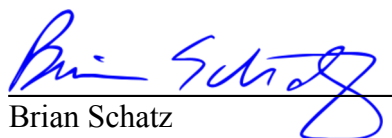
Jeanne Shaheen  
United States Senator



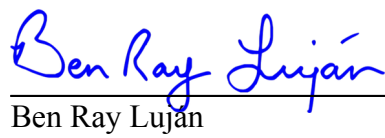
Richard Blumenthal  
United States Senator




Laphonza Butler  
United States Senator



Brian Schatz  
United States Senator



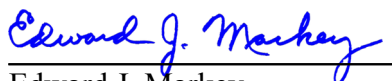
Ben Ray Lujan  
United States Senator



Elizabeth Warren  
United States Senator



Benjamin L. Cardin  
United States Senator



Edward J. Markey  
United States Senator



Mazie K. Hirono  
United States Senator



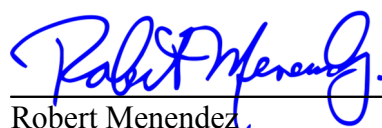
Debbie Stabenow  
United States Senator



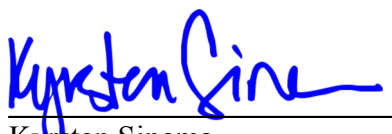
Jon Ossoff  
United States Senator



Mark R. Warner  
United States Senator



Robert Menendez  
United States Senator



Kyrsten Sinema  
United States Senator