



Dissenting Views on the Committee Print

In the face of multiple crises facing America – a disastrous withdrawal from Afghanistan with the abandonment of hundreds of American behind enemy lines, illegal immigrants flooding a porous Southern border, devastating hurricanes, historic wildfires, severe drought, skyrocketing inflation – Natural Resources Committee Democrats ignored all these actual issues facing Americans and instead prioritized partisan wish lists in a multi-billion-dollar reconciliation bill. The majority had an opportunity to advance legislation to address the real needs of our country, get Americans back to work, and make our natural resources healthier and more resilient for the future. Unfortunately, Committee Democrats achieved none of those goals in this legislation.

By shutting down debate and forcing this highly partisan legislation forward, the majority ensured that Americans would continue facing rising energy costs, energy and mineral dependence and many other crippling issues, all while using taxpayer dollars for pet projects, including a \$200 million payout to the rich and famous in Speaker Pelosi’s district. While Committee Democrats claim to be “Building Back Better,” their actions ultimately speak louder than words.

Civilian Climate Corps

The reconciliation legislation provides over \$3.6 billion to create a new Civilian Climate Corps (CCC), including \$1.7 billion for the National Park Service, \$900 million for the Bureau of Land Management, \$400 million for the Fish and Wildlife Service, \$500 million for a Tribal CCC, and \$120 million for the National Oceanic and Atmospheric Administration. This section is a prime example of virtue signaling from Committee Democrats as the term “climate” does not even appear in the CCC’s enacting legislation beyond the headers. At a time when so many employers are trying to fill jobs, it is unfathomable that the federal government would spend billions to create a new bureaucracy to compete with small, struggling businesses.¹ It is even more egregious that Democrats are purporting to create jobs through this misguided section, when the overall effect of the legislation will decimate thousands of existing, high-paying jobs in the energy sector.

¹ NBC News. “The jobs are coming back — but the workers are not.” June 9, 2021. <https://www.nbcnews.com/business/economy/jobs-are-coming-back-workers-are-not-n1270168>.

Resurrecting a 1930's style federal work program under the guise of addressing climate change will achieve nothing but bloating an already bloated federal workforce. The vague, confusing language of the legislation doesn't outline what exactly could be considered a "conservation project" and doesn't even bother defining what an "education and job training project" is at all.² This confusion is compounded by the fact that the text does nothing to alleviate concerns about how this new CCC will interact with the hundreds of existing private corps networks that are already meeting the demand for these projects. Democrats rejected several Republican amendments to address basic concerns with the CCC, such as tying the program to unemployment, defining what projects should be allowed, and mandating that funds only go to legal U.S. citizens. Democrats rejected these amendments on the concern they could create "procedural issues" in the Senate, while conveniently ignoring the actual procedural issue their own price tag creates for the Democratic Chairman of the Senate Committee that will be receiving these very instructions.³

Pelosi Presidio Payout

The reconciliation legislation also provides \$200 million in taxpayer funding for the Presidio Trust, an agency that manages roughly 1,200 acres in San Francisco, exclusively located in Speaker Nancy Pelosi's district. Just five miles from the San Francisco Financial District and nestled among multi-million-dollar mansions, the Presidio has miles of pristine trails, bike routes, scenic overlooks, and even a posh golf course all along the California coast.⁴

Despite a proclamation on the Trust's website stating that park is managed "at no cost to the taxpayers" and its original enabling statute, which mandates the agency become self-sufficient by FY 2012, Congress has authorized \$30 million in loans to the Trust and is now on the verge of providing hundreds of millions of dollars via direct appropriation.⁵ These taxpayer funds will likely get used to redevelop the 20-acre Fort Scott site, which boasts stunning views of the Golden Gate Bridge, into "a place for change."⁶ According to the Trust CEO Jean Fraser, the Trust envisioned renovating "these buildings so that people who are working in the environmental or social justice areas would have a place to do great work in this magnificent setting."⁷ The original plan laid out by the Presidio Trust in 2018 was to find a wealthy philanthropist to fund this \$200 million dollar project. It is clear her plan never materialized, and now the Trust has found a new philanthropist to fund this liberal "place for change" in the form of the American taxpayer.

² Committee Print, as Reported by the Committee on Natural Resources (Providing for reconciliation pursuant to S. Con. Res. 14, the Concurrent Resolution on the Budget for Fiscal Year 2022, page 12.

³ Manchin, Joe. "Why I Won't Support Spending Another \$3.5 Trillion." Wall Street Journal. <https://www.wsj.com/articles/manchin-pelosi-biden-3-5-trillion-reconciliation-government-spending-debt-deficit-inflation-11630605657>. Note: this article was published on September 2, 2021, during day 1 of the Committee's markup.

⁴ A weekend tee time will cost you \$120. <https://www.presidiogolf.com/rates-reservations/>.

⁵ About the Presidio Trust, Presidio Trust (2021), <https://www.presidio.gov/presidio-trust/about> (last visited Sep 13, 2021); Person. "Powerful Patrons Duel over California Projects in Final Spending Package." Roll Call, Roll Call, 12 Dec. 2019, www.rollcall.com/2019/12/11/powerful-patrons-duel-over-california-projects-in-final-spending-package/.

⁶ Levi, Ryan. "For \$200 Million, You Can Change the World at The Presidio's Fort Scott." KQED, KQED, 22 Apr. 2018, www.kqed.org/news/11663954/for-200m-you-can-change-the-world-at-the-presidios-fort-scott.

⁷ *Id.*

During the Committee’s markup, Republicans offered several amendments redirecting these funds to causes such as giving a well-deserved pay raise to wildland firefighters, providing recreation opportunities to veterans, military service members, and Gold Star Families, improving forest management to reduce the risk and severity of catastrophic wildfires, addressing the National Park Service’s deferred maintenance backlog, and providing grants to remember and honor those we lost on September 11, 2001. Republicans also offered an amendment to prohibit funds from being spent on the Presidio’s pristine golf course, high-end hotels, and luxury homes and apartments. Democrats unanimously rejected these amendments, instead voting to give Speaker Pelosi and millionaires in her district a slush fund at the taxpayer’s expense.

Failure to Address the Crisis at our Federal Border

Illegal immigration has produced long-term environmental consequences for federal lands. Despite this fact, Democrats allocated no funding toward mitigating the impacts of illegal border crossers. The degradation of public lands will become an even more pressing issue as President Biden’s policies continue to exacerbate a crisis at the Southern border. In July 2021, for the first time in 21 years, Customs and Border Protection detained more than 200,000 people trying to illegally cross the Southwest border.⁸ In addition to the individuals detained, border officials reported more than 1,000 daily “got-aways” in recent months.⁹

Previously, illegal immigration resulted in the creation of illegal trails, spreading wildfires, and destruction of critical habitat. Officials estimate that damage to federal lands will rise, as the number of individuals attempting to cross the Southern border continues to reach historic levels. Restoring public lands and erecting protections to deter further damage requires funding. Despite this, none of the \$31.7 billion in the Committee’s reconciliation package is directed toward mitigating the predictable harms caused by illegal border crossers.

Although Committee Democrats initially supported funding U.S. Fish and Wildlife Service Civilian Climate Corps projects to rehabilitate the harms caused by illegal border crossers, the majority later backtracked and removed the Republican language to address this important issue. Similarly, the majority declined to dedicate funding for the National Park Service’s or Bureau of Land Management’s Civilian Climate Corps to rehabilitate federal lands along the Southern border. In addition, the majority refused to consider providing resources to private landowners and ranchers to address the adverse impacts illegal immigration has on their lands. Committee Democrats have repeatedly and willfully ignored predictable damages and failed to allocate a single penny to mitigate harms to federal lands along the Southern border. Sensitive areas and critical wildlife habitats will suffer as a result.

Endangered Species Act and Wildlife Provisions

⁸ Nick Miroff, July was Busiest Month for Illegal Border Crossing in 21 Years, CBP Data Shows, THE WASHINGTON POST (Aug. 12, 2021), https://www.washingtonpost.com/national/record-numbers-illegal-border-crossings/2021/08/12/e3d305e2-facd-11eb-b8dd-0e376fba55f2_story.html.

⁹ *Id.*

This reconciliation legislation represents a lost opportunity to achieve real results for the American people. It throws billions of taxpayer dollars at programs that are duplicative, ineffective, or buried in the ideologies of the past. Rather than empower states, tribes, localities and the private sector, it throws money – which will be added to our massive federal debt – at longstanding problems without any commonsense, long-term solutions.

For example, the legislation directs funding toward Endangered Species Act (16 U.S.C. 1531 et seq., ESA) programs, some of which even the Biden Administration testified are unnecessary and duplicative. The ESA, a well-intended but broad 1973 law aimed at protecting endangered and threatened species, is a law in great need of reform. One only needs to look at the San Joaquin Valley of California or the Klamath area in Oregon and California as a microcosm of what has gone wrong with the ESA over time: as more water is diverted from communities for the three-inch endangered Delta smelt, sucker fish, or salmon, the long-term result is that both species and communities continue to suffer, especially during these times of historic drought. The ESA status quo is simply not working for species and people.

The ESA can be updated and modernized to both better protect truly endangered species and the human communities often impacted by the draconian ESA regulations and decisions made by the federal bureaucracies. Democrats had this opportunity but failed miserably not only in the underlying text, but also in voting party-line against multiple ESA-related amendments offered by Committee Republicans. Mr. Bentz offered an amendment to preserve critical habitat designations made under the prior administration which would have led to increased forest restoration projects, created jobs, and protected the Northern Spotted Owl from catastrophic wildfire. Mr. Carl offered an amendment to protect lobstermen and others from a recent and punitive Right Whale rule and restrictive marine protected areas. Both amendments were opposed by Democrats in party line votes.

Overall reforms aimed at improving ESA implementation met the same fate. An amendment offered by Mr. Gosar attempted to codify five different ESA rules aimed at defining critical habitat, streamlining the law's consultation process, and requiring robust economic analysis failed in a party-line vote. Since a few litigious groups have weaponized the ESA to sue the federal government and receive hundreds of millions in attorneys' fees that are then used for additional lawsuits, Mr. Westerman's amendment would have prohibited these organizations from getting any ESA-related grants under the bill. The majority sided party-line with the litigious environmental extremists.

Doing further harm to wildlife conservation, the majority effectively sided with the serial litigation/instigation movement which has petitioned the Biden Administration to ban the importation, acquisition, transfer, or possession of ALL wildlife and wildlife products or parts. In an August 26, 2021 letter to the administration, 36 diverse wildlife hunting organizations and state fish and wildlife agencies wrote that the petition was “federal overreach,” risks the “financial stability” of state-led conservation funding, would create “bureaucratic hurdles” for non-resident hunting, and that the sweeping ban “under the guise of preventing future pandemic threats is beyond comprehension.” While Committee Republicans universally agreed with Mr. Tiffany's amendment prohibiting funding for such a ban, the majority voted party-line to leave the door open for a potentially devastating ban.

Drought Response and Preparedness Provisions

Committee Democrats also missed opportunities to help many affected by this year's historic western drought. For generations, multi-purpose reservoirs in the American West have captured water in "wet" times to use during the "dry" times. More than ever, increased water storage is needed to capture additional runoff. While the majority voted against Republican amendments to add short-term funding for "drought relief" under the reconciliation bill, Committee Democrats also voted against three Republican amendments aimed at providing long-term water storage and other solutions. Mr. Bentz's amendment to reauthorize the successful Subtitle J of the Water Infrastructure Improvements for the Nation (WIIN) Act and Mr. McClintock's amendment to fund the Shasta Dam Raise were both defeated. Mr. Obernolte's amendment adding water storage, water recycling and desalination projects under the WIIN Act recommendation process was rejected on a party-line vote, even though the funding for the projects had been recently recommended by the Biden Administration. The Majority's willingness to defeat these amendments is another telling example how they have no long-term, serious plan to avoid the next drought, and represents yet another missed opportunity in their partisan exercise.

Conventional and Renewable Energy Provisions

This legislation amends the Mineral Leasing Act of 1920 (30 U.S.C. 181 et seq., MLA), the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq., OCSLA), and the Federal Oil and Gas Royalty Management Act (30 U.S.C. 1701 et. seq.) to raise rental rates, fees, and royalty rates for conventional energy leases on federal lands and waters. The text would discourage oil and gas leasing on federal lands by eliminating leasing policies that provide certainty to operators and states, as well as by imposing duplicative regulatory reviews and onerous reporting requirements. The result is a loss of good-paying American jobs.

Nearly every existing fee for oil and gas production is increased under this legislation, and several new ones are created. First, the minimum royalty rate for onshore and offshore oil and gas production is raised from 12.5% to 20% and reinstated onshore lease royalties raised from 16⅔% to 25%. This change alone immediately makes federal lands and waters significantly less attractive for operators compared to states and private lands. The extensive changes to the leasing process under this legislation also include the following: raising the minimum national bid to \$10 per acre, increasing rental rates for onshore oil and gas from \$2 to \$3 for the first 5 years and from \$3 to \$5 every year thereafter, eliminating noncompetitive leasing, applying a royalty on all methane released, establishing an expression of interest fee, reducing standard lease terms from 10 years to 5 years, imposing new inspection fees onshore and increasing existing inspection fees offshore, creating an idled well fee, establishing an annual fee for offshore pipelines, increasing bonding requirements, removing flexibility for deferred coal bonus bid payments, eliminating the possibility of royalty relief, and many other changes.

In addition to raising royalties and fees, this legislation also threatens American energy security by locking up vast areas both onshore and offshore. First, the text permanently prohibits leasing on the Outer Continental Shelf (OCS) in the Atlantic, Pacific and Eastern Gulf of Mexico

Planning Areas, removing the potential for future development. Another de-facto withdrawal is created by repealing Section 20001 of the Tax Cuts and Jobs Act of 2017, which authorized oil and gas production in the 1002 Area of the Arctic National Wildlife Refuge and required two lease sales. The Trump Administration finalized the first lease sale in 2020, but the Biden Administration has halted implementation of the leasing program.

While this legislation hamstring conventional energy development, it also does nothing to support renewable energy, leaving a question about where our energy supply will come from. Wind leasing is authorized in the territories under this text, although no revenue-sharing mechanisms were included for the benefit of the territories. There is also a provision to exempt wind energy from Trump-era energy leasing moratoria offshore Florida, Georgia and the Carolinas. While Committee Republicans support wind leasing in these areas, this legislation should not pick “winners and losers” in the energy sector, and should instead allow market forces to dictate which resources are developed in these areas. The text contains no improvements at all for onshore renewables, which already lag notoriously behind renewable development on state and private lands.

These changes serve to make conventional energy production less profitable and more challenging, decreasing the competitiveness of domestic development on federal lands and waters. The burden will fall especially hard on small operators, at a time when unemployment remains exceptionally high. Gas prices are at their highest level in 7 years,¹⁰ and making domestic production harder will exacerbate this problem for Americans across the country.

Hardrock Mineral Provisions

This text makes multiple changes to the existing hardrock mining system that would be devastating to current and future domestic production. First, the legislation assesses a new 8% gross royalty on new mines and a new 4% gross royalty on existing mines. These punitive royalties threaten the economic viability of new and existing mines, and could even constitute a takings claim against the federal government. Additionally, the text establishes a new “displaced material” reclamation fee of seven cents per ton. This fee would be based on the amount of crude ore and waste material moved during the mining process, often known as the “dirt tax.” These new royalties and fees would be in addition to the existing claim maintenance fee already charged by the government.¹¹

While new royalties and fees are purportedly intended to raise money, several mining-related provisions would also reduce expected revenues to the federal government, in addition to causing major harm to domestic mineral supply chains. The most expensive provision is the establishment of an abandoned mine fund, which calls for \$2.5 billion for the inventory and remediation of abandoned hardrock mines for 10 years. More troubling for future production are two major mineral withdrawals contained in this legislation. The first repeals 16 U.S.C. 539p, the Southeast Arizona land exchange and conservation, which was enacted as part of the FY 2015 NDAA and establishes a mineral withdrawal in the area. This provision is intended to prevent the

¹⁰ <https://www.cbsnews.com/news/gas-prices-highest-in-7-years/>

¹¹ Bureau of Land Management. “Mining Claim Fees.” <https://www.blm.gov/programs/energy-and-minerals/mining-and-minerals/locatable-minerals/mining-claims/fees>

Resolution Copper mining project from going forward, banning development of some of the most valuable copper resources in the nation and eliminating thousands of potential jobs associated with the mine. The second withdrawal in this bill would permanently ban mineral development on approximately 1 million acres of public lands in Northern Arizona. This withdrawal area is far outside the Grand Canyon and would prevent development of the largest tract of uranium deposits in the country.¹² Finally, this text provides \$3 million to BLM to revise rules and regulations “to prevent undue degradation of public lands due to hardrock mining activities” for a period of 10 years, which is likely intended to impose onerous regulations on hardrock mining.

Indian Health Service

Democrats’ partisan, lopsided budget reconciliation legislation is a missed opportunity to address critical needs at Indian Health Service (IHS) hospitals and facilities. The total estimated IHS facility construction need is approaching \$20 billion. The United States has a federal trust responsibility to ensure American Indians and Alaska Native communities have access to adequate, safe, and reliable health facilities.

In 1990, the IHS revised the Health Care Facilities Construction Priority System (HFCPS).¹³ The remaining health care facilities projects on the HFCPS list today, including those partially funded, total approximately \$2 billion as of March 2020.¹⁴ At the current rate of facility construction appropriations, if a new facility were built today, it would not be replaced for 400 years. With an extraordinary need beyond the 1990 HFCPS, Democrats’ proposal of only \$2 billion is a missed opportunity. In recent years, several reports to Congress have highlighted the dire conditions of many IHS facilities. Additionally, this proposal does not contain any policies that will require the IHS develop new construction need methodologies to ensure the construction list reflects the greatest needs throughout Indian country.

Although there is bipartisan agreement in Congress of the need for robust healthcare infrastructure investment in Indian Country, the proposals contained in this section, fall short of adequately and properly addressing critical needs within Indian Country.

Ranking Member Westerman offered an amendment to reallocate an additional \$1 billion to IHS facilities construction to better address our healthcare responsibilities in Indian Country. The amendment was defeated by a party line vote. Committee Democrats continue the trend of prioritizing climate change talking points and partisan slush funds over the health and well-being of Americans.

¹² Letter to Secretary Zinke from the Congressional Western Caucus, re: Arizona Uranium Mineral Withdrawal. July 27, 2018.

¹³ <https://www.ihs.gov/dfpc/resources>

¹⁴ https://www.ihs.gov/sites/dfpc/themes/responsive2017/display_objects/documents/projects/Planned_Construction_Priorities.pdf

Bureau of Indian Affairs

Conditions throughout Indian Country are, at best, subpar. Democrats had a real opportunity to work on critical needs for Indian Country. Unfortunately, the Bureau of Indian Affairs (BIA) provisions found in this Committee print do not adequately address the real needs in tribal communities.

For instance, the majority's plan includes a new \$1 billion program to address tribal climate resiliency, adaptation, and community relocation planning, design, and implementation of projects which address the varying climate challenges facing tribal communities. This amount is nearly twice the amount of the annual appropriations to the entire BIA budget. The BIA Climate Resilience program is supposed to send resources to Federally recognized tribes to build capacity and resilience through both technical and financial assistance, support the delivery of data and tools, access to training and workshops and facilitates planning associated with impacts posed by harmful environmental trends. However, there is little indication that tribes have been adequately consulted on how this new BIA program would be implemented or if this initiative is even a priority in Indian Country.

Committee Democrats' "Blue New Deal" legislation (H.R. 3764) includes similar legislative proposals for climate change resiliency enhancements within the Department of the Interior. There is limited information as to whether these efforts to direct federal funding for climate resiliency programs will improve tribal economies throughout the nation.

The budget reconciliation Committee print includes a provision that addresses public safety in Indian Country. The Bureau of Indian Affairs Public Safety section would authorize \$200 million for carrying out programs under the BIA Office of Justice Services. This office is tasked with managing BIA's law enforcement, corrections, and tribal court programs, including construction. Indian Country currently faces some of the highest rates of crime. Tribal citizens are nearly 2.5 times more likely to become victims of violent crimes, and unfortunately, Native women are subject to even higher rates of domestic violence and abuse. The federal government is not providing the necessary resources to combat crime in Indian Country, and the Democrats' plan of only providing \$200 million for public safety is disheartening.

Although there is bipartisan agreement in Congress regarding the need for robust public safety and justice investment in Indian Country, the proposals contained in this section fall far short of adequately and properly addressing those critical needs.

Ranking Member Westerman offered an amendment that would reallocate \$1 billion originally set aside for tribal climate resiliency and adaptation and redirect it to the BIA's Public Safety and Justice programs. The amendment was defeated by Committee Democrats on a party line vote. This amendment would have provided additional funding for BIA law enforcement, creating safer detention facilities and providing sound justice to all tribal members. This is yet another instance where the Democrat majority has voted against critical funding for law enforcement, public safety, and justice infrastructure.

Vieques Compensation

The section proposes placing a Special Master in charge of determining if a claimant or heir is eligible for compensation for exposure to contamination in Vieques, Puerto Rico.

Although federal public health assessments have suggested low levels of direct exposure, both the Puerto Rican government and independent documentation have detected the presence in the environment of Vieques of levels of heavy metals as a result of the expended ordnance over 62 years of military operations, being absorbed into the vegetation and crops, creating a potential pathway of exposure for civilians. Residents have raised claims of increased incidence of chronic health problems.

The majority's proposal, unlike bipartisan legislative proposals of H.R. 1126 and H.R. 1317, provides no guidance as to dollar amounts a claimant(s) or heir(s) would be eligible nor about the specific criteria for determining that eligibility either regarding residency in Vieques or health condition, nor further research into the environmental health situation. In addition, the funding authorized under this section would flow through the Department of the Interior rather than from the Judgement Fund at the Department of Justice. The lack of structure contained in this section and proposal to include a federal agency that does not even have oversight of Puerto Rico creates additional bureaucratic and implementation challenges instead of a solution to claimants.

Insular Hospital Infrastructure

The legislation proposes \$993 million for Hospitals and Health Infrastructure in the Insular Areas. Of that, 35 percent of the amount made available under this section will be available for Guam, 35 percent to the U.S. Virgin Islands, 20 percent to the Commonwealth of the Northern Mariana Islands and 10 percent to American Samoa for public hospital infrastructure.

Conditions at the LBJ hospital in American Samoa are dire due to a lack of adequate funding and a chronic backlog of infrastructure maintenance. While the Department of Interior's Office of Insular Affairs (OIA) Capital Improvement Program has provided infrastructure funding to the LBJ hospital, current needs are estimated to be more than \$100 million for modernization, and three-quarters of a billion for complete replacement of the facility.

Similarly, the main wings of the Guam Memorial hospital were built in 1978 and need replacement. In April 2020, the U.S. Army Corps of Engineers issued a report stating that the hospital is in an overall state of failure due to age, environmental exposure, lack of financial resources to support pre-planned capital infrastructure replacements, and lack of previous facilities design adherence to building codes. The Army Corps estimated the cost of replacement is \$743 million. While the government of Guam has set aside approximately half of the needed funds, investment will ensure Guam has an adequate health facility, as recommended by the U.S. Corps to meet accreditation standards.

In 2017, two hospitals in the U.S. Virgin Islands were damaged by hurricanes Maria and Irma. In

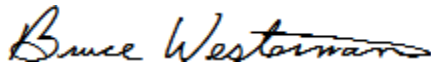
2019, FEMA announced it would direct \$80 million to aid in the reconstruction of the two hospitals. The remaining cost to rebuild the hospitals would be \$170 million.

In 2018, Super Typhoon Yutu caused significant damage to health infrastructure in the Commonwealth of the Northern Marianas. Approximately \$20 million will be set aside for hospital infrastructure reconstruction, despite no comprehensive estimate of need at the hospital.

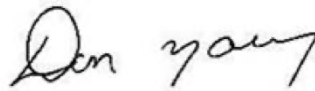
While there is bipartisan support for investment in health infrastructure in the U.S. territories, the percentage allocations proposed by the majority are artificial and do not support equitable funding across the territories. The lopsided funding structure contained in this section does nothing to consider territory population or total healthcare need.

For these many reasons, we oppose the Committee Print as ordered reported.

Sincerely,



Bruce Westerman
Ranking Member



Don Young
Member of Congress



Louie Gohmert
Member of Congress



Doug Lamborn
Member of Congress



Robert J. Wittman
Member of Congress



Tom McClintock
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Paul A. Gosar, D.D.S.
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Garret Graves
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Jody Hice
Member of Congress



Aumua Amata C. Radewagen
Member of Congress



Daniel Webster
Member of Congress



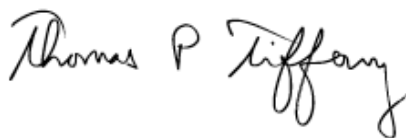
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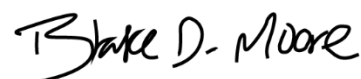
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