

Congress of the United States
Washington, DC 20515

March 25, 2015

The Honorable John Culberson
Chairman
Committee on Appropriations,
Subcommittee on Commerce, Justice,
Science, and Related Programs
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Chaka Fattah
Ranking Member
Committee on Appropriations,
Subcommittee on Commerce, Justice,
Science, and Related Programs
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Culberson and Ranking Member Fattah:

As you prepare the Fiscal Year 2016 Commerce, Justice, Science, and Related Programs Appropriations Bill, we respectfully request that you include language prohibiting funding for the UN Arms Trade Treaty (ATT) that updates and strengthens the language of Public Law No: 113-235, the Consolidated and Further Continuing Appropriations Act, 2015, as well as Public Law No: 113-291, the Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015.

The ATT entered into force for those nations that have ratified it on December 24, 2014. The next step in the treaty process is for the nations that have signed or ratified the treaty – including the United States – to hold a Conference of States Party to the treaty. Preparations for this CSP are already well under way. One of the main agenda items at the CSP will be the creation and funding of a treaty secretariat, which is explicitly required by the text of the treaty.

We continue to have serious concerns with both the substance of the ATT and the process by which it was adopted. We are deeply concerned that the ATT does not expressly recognize, in the body of the treaty text, the fundamental, individual right to keep and bear arms, and the individual right of personal self-defense, as well as the legitimacy of hunting, sports shooting, and other lawful activities pertaining to the private ownership of firearms and related materials, and are thus concerned that the treaty risks encouraging infringements on freedoms protected by the Second Amendment.

In this regard, we are particularly concerned by the treaty's requirement to prevent the "diversion" of firearms, and by the fact that this requirement is not clearly limited to international trade – and thus could be held to apply to the sale or transfer of firearms inside the United States. Moreover, we are concerned that the ATT calls for all nations to keep records of arms transfers, and its suggestion that these records include information on "end users," e.g. private firearms owners, which are to be reported to the treaty secretariat. This would be a serious violation of the privacy of millions of Americans.

Furthermore, we are concerned that the ATT could hinder the U.S. from fulfilling its strategic, legal, and moral commitments to provide arms to key allies such as the Republic of China (Taiwan) and the State of Israel, noting that the ATT's criteria for assessing the potential consequences of arms transfers are vague and easily politicized, and that the ATT's supporters have already repeatedly sought to use it to end U.S. arms transfers to Israel. We are equally concerned that the ATT risks imposing costly regulatory burdens on U.S. businesses, for example, by creating onerous reporting requirements that could damage the domestic defense manufacturing base and related firms. Finally, we are concerned that the ATT places free democracies and totalitarian regimes on a basis of equality, recognizing their equal right to transfer arms, and is thereby dangerous to the security of the United States.

We also have serious concerns with the process by which the ATT was adopted. By voting in support of adopting the ATT through the UN General Assembly by a majority vote, rather than by consensus-based agreement, the State Department abandoned its stated "key U.S. redline," that the "ATT negotiations must have consensus decision making to allow us to protect U.S. equities" and to "ensure that all countries can be held to standards that will actually improve the global situation." We are concerned that the U.S. departure from consensus undermines our efforts to protect U.S. interests in future treaty negotiations, particularly when the U.S. is in a minority or when it stands alone.

We are also concerned with President Obama's efforts to implement the ATT unilaterally via executive actions, without the advice and consent of the Senate, and without the passage of implementing legislation, as required, by the Congress. You may recall that Thomas Countryman, Assistant Secretary for International Security and Nonproliferation at the Department of State and the head of the U.S. delegation to the UN conferences that negotiated the ATT, provided assurances in November 2013 that "becoming a party to the treaty would not require any additional export or import controls for the United States, full stop." However, on January 14, 2014, President Obama expressed his willingness to "use [his] pen to sign executive orders and take executive actions and administrative actions" without Congress. The very next day the Obama administration announced a new U.S. Conventional Arms Transfer Policy (Presidential Policy Directive/PPD-27), which abandoned the existing policy and incorporated the standards and requirements of the ATT.

We are also concerned that almost eighteen months have passed since Secretary of State John Kerry signed the ATT on behalf of the United States in September 2013. Both before and after that date, both the House and the Senate have repeatedly expressed serious concerns about the ATT, including in a bipartisan letter signed by 181 members of the House to President Obama by Representatives Mike Kelly and Collin Peterson on October 15, 2013, and a companion letter from Senators Jerry Moran and Joe Manchin on behalf of fifty senators. More recently, on March 2, 2015, Representative Kelly sent a new letter, noting that 34 members of the House newly-elected in 2014 support his previous letter, making a total of 191 currently-serving members of the House. Senators Moran and Inhofe sent a parallel letter, which now has the support of 55 currently-serving members of the Senate.

In spite of these expressions of concern, the Obama administration has continued to hold the ATT in limbo, implementing it through administrative actions while failing even to transmit it to the Senate. Nor has the administration acknowledged that, as a non-self-executing treaty, the ATT must be the subject of implementing legislation passed by both the House and the Senate. The U.S. export and import control systems were created by Senate and House action: they are not simply a creation or, or subject to the sole control of, the Executive Branch. The ATT is directly related to those systems, and legislative control of its implementation in law is inseparable from Congressional responsibility for the creation of the export and import control systems. We believe it is essential to maintain the principle that non-self-executing treaties must be the subject of implementing legislation before funds can be expended upon them.

Moreover, during the course of those months, the ATT has come into force: in the course of fiscal year 2016, the U.S. will be presented with a bill, likely to be set at a level comparable to its UN dues (i.e. 22 percent of expenditures), for the funding of the treaty secretariat. We are entirely opposed to the contribution of any U.S. funds to such a secretariat, the establishment of which will not serve U.S. interests, and which is the result of a treaty that has not even been transmitted to the Senate for its advice and consent.

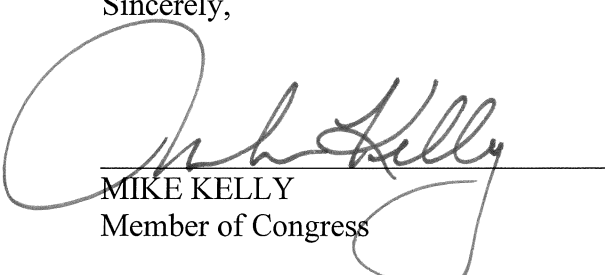
Finally, the Supreme Court case of *Bond v. United States* (2014) illustrates that domestic criminal prosecutions of individuals have been based on treaties that were supposedly intended to control the conduct of the states party. Even though the ATT has not received the advice and consent of the Senate, or been the subject of implementing legislation, this danger still exists in this case, partly because the Obama administration accepts that it has the obligation not to undermine the treaty's objective and purpose, and partly because it has stated that it is already implementing the ATT through existing authorities, which opens the door for prosecutions that are sustained by a charge of violating the ATT.

For the above reasons, we respectfully request that you include the following language in opposition to ATT funding in the Fiscal Year 2016 Commerce, Justice, Science, and Related Programs Appropriations Bill.

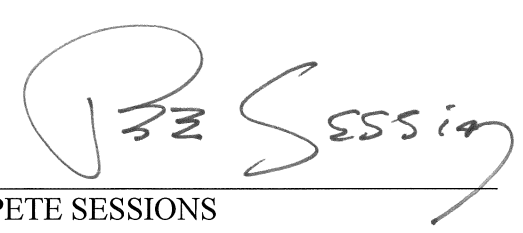
Sec. ____ None of the funds made available by this Act may be obligated or expended to sustain domestic prosecutions based on any charge related to the Arms Trade Treaty, or to implement the Treaty until the Senate approves a resolution of ratification for the Treaty and the House and Senate adopt implementing legislation for the Treaty.

Thank you for your consideration of this request.

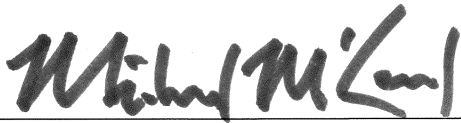
Sincerely,



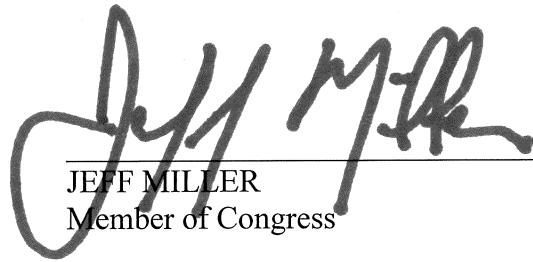
MIKE KELLY
Member of Congress



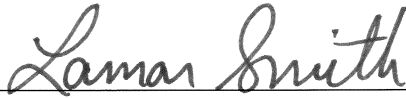
PETE SESSIONS
Member of Congress



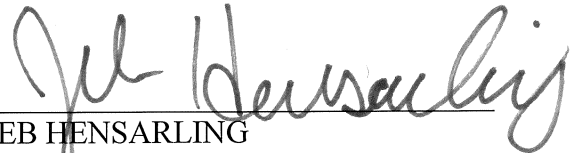
MICHAEL MCCAUL
Member of Congress



JEFF MILLER
Member of Congress



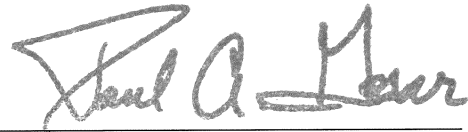
LAMAR SMITH
Member of Congress



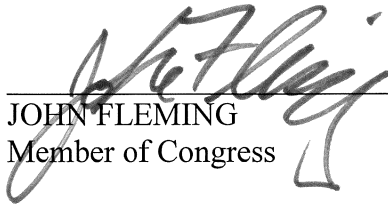
JEB HENSARLING
Member of Congress



BILL FLORES
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PAUL GOSAR
Member of Congress



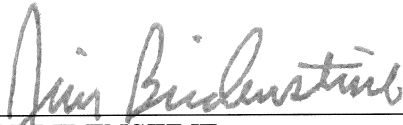
JOHN FLEMING
Member of Congress



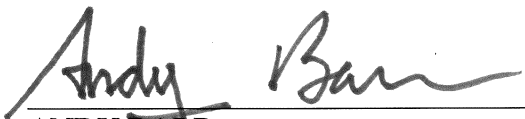
DOUG LAMALFA
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JIM BRIDENSTINE
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WILL HURD
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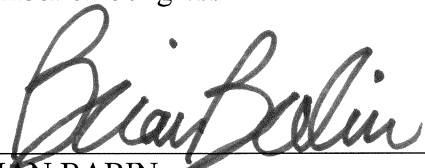


PETE OLSON
Member of Congress



TRENT FRANKS
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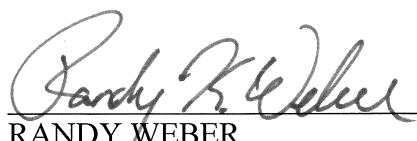

MARK MEADOWS
Member of Congress



REID RIBBLE
Member of Congress

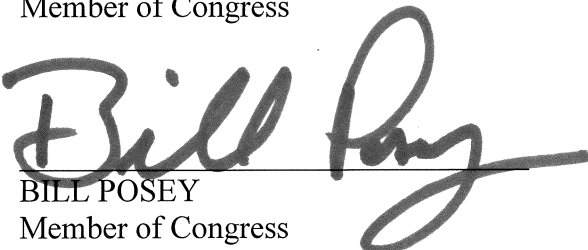

BRIAN BABIN
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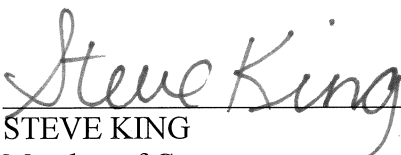

CHARLES BOUSTANY
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MATT SALMON
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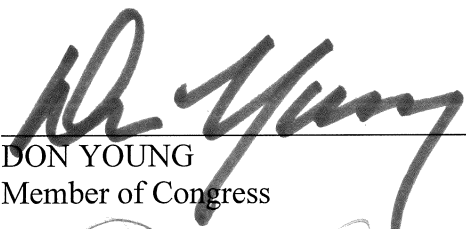

RANDY WEBER
Member of Congress

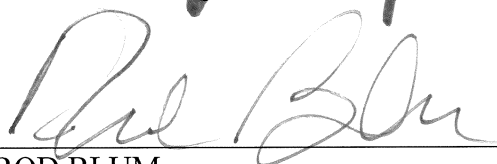

RYAN ZINKE
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BILL POSEY
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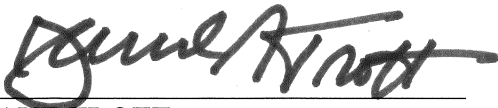

STEVE KING
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JEFF DUNCAN
Member of Congress


DON YOUNG
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ROD BLUM
Member of Congress


MARLIN STUTZMAN
Member of Congress



DAVE TROTT
Member of Congress



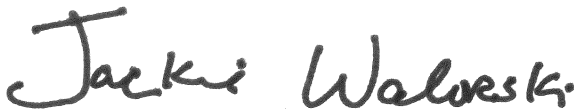
TIM MURPHY
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DAVID SCHWEIKERT
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TODD ROKITA
Member of Congress



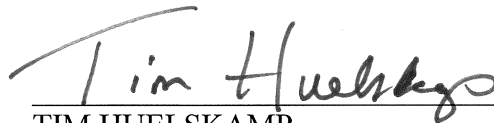
JACKIE WALORSKI
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PHIL ROE
Member of Congress



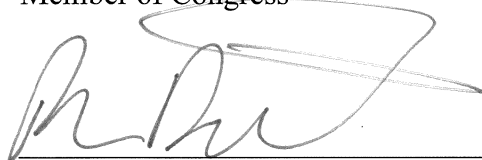
GLENN GROTHMAN
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JODY HICE
Member of Congress



RON DESANTIS
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ADRIAN SMITH
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BLAKE FARENTHOLD
Member of Congress



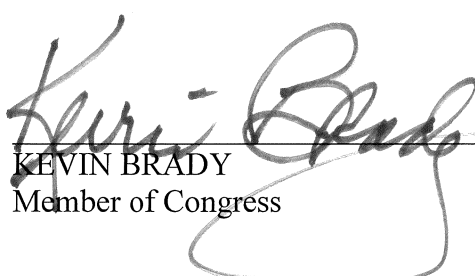
DIANE BLACK
Member of Congress



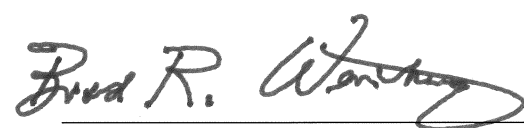
SCOTT DESJARLAIS
Member of Congress



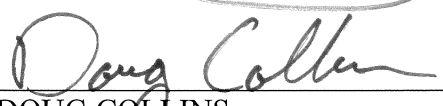
BLAINE LUETKEMEYER
Member of Congress




KEVIN BRADY
Member of Congress



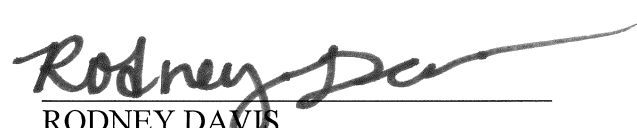
BRAD WENSTRUP
Member of Congress



DOUG COLLINS
Member of Congress



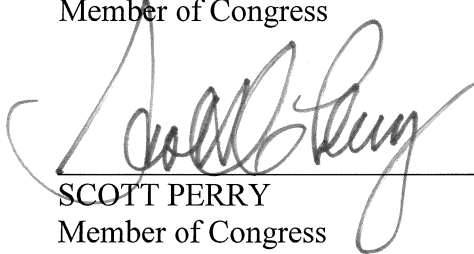
LOU BARLETTA
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RODNEY DAVIS
Member of Congress



MIKE POMPEO
Member of Congress



SCOTT PERRY
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RALPH ABRAHAM
Member of Congress




DANA ROHRABACHER
Member of Congress



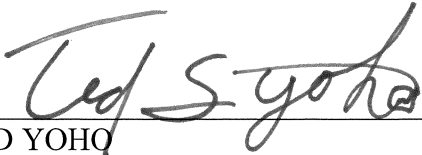
DANIEL WEBSTER
Member of Congress



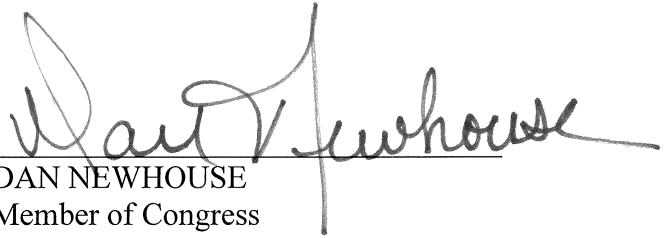
LYNN WESTMORELAND
Member of Congress



LOUIE GOHMERT
Member of Congress



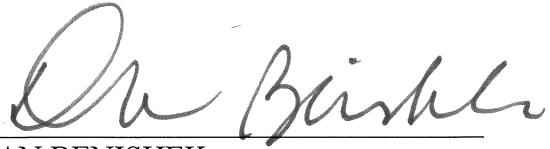
TED YOHO
Member of Congress



DAN NEWHOUSE
Member of Congress



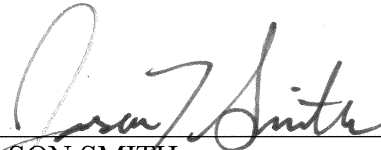
CYNTHIA LUMMIS
Member of Congress



DAN BENISHEK
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STEVE STIVERS
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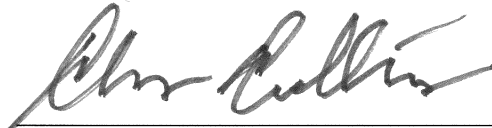
JASON SMITH
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JOHN KATKO
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BILL JOHNSON
Member of Congress



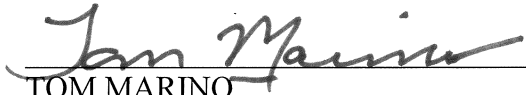
CHRIS COLLINS
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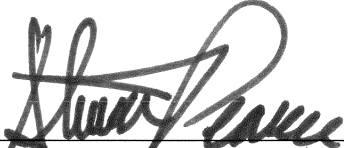
THOMAS MASSIE
Member of Congress



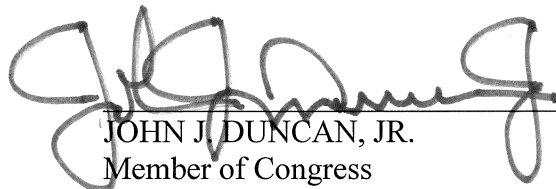
ADAM KINZINGER
Member of Congress



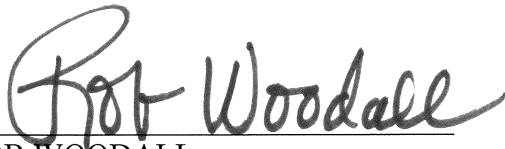
TOM MARINO
Member of Congress



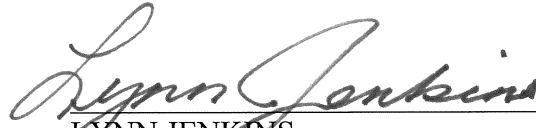
STEVE PEARCE
Member of Congress



JOHN J. DUNCAN, JR.
Member of Congress



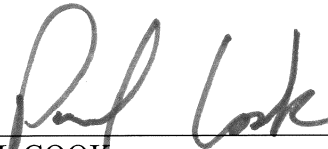
ROB WOODALL
Member of Congress



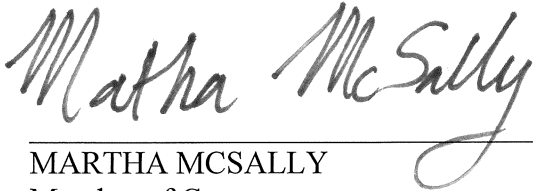
LYNN JENKINS
Member of Congress



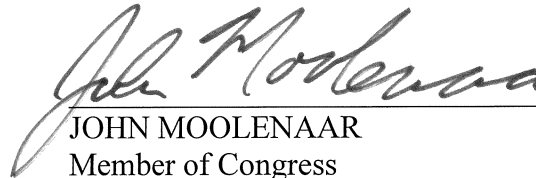
JOHN RATCLIFFE
Member of Congress



PAUL COOK
Member of Congress



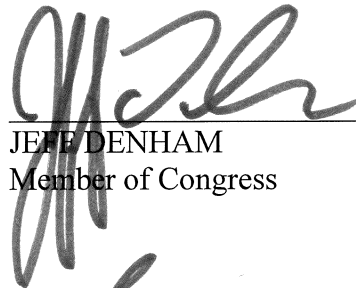
MARTHA MCSALLY
Member of Congress



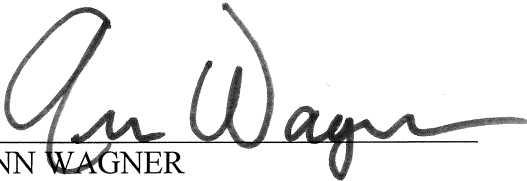
JOHN MOOLENAAR
Member of Congress



DOUG LAMBORN
Member of Congress



JEFF DENHAM
Member of Congress



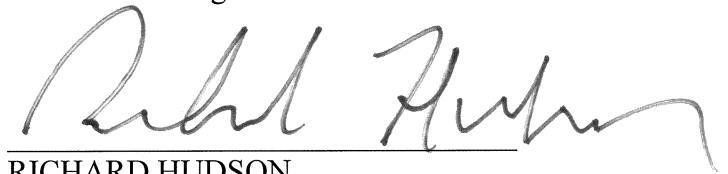
ANN WAGNER
Member of Congress



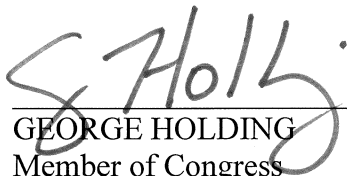
SCOTT RIGELL
Member of Congress



KRISTI NOEM
Member of Congress



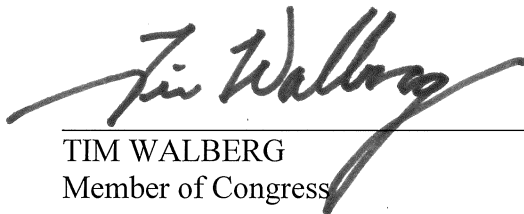
RICHARD HUDSON
Member of Congress



GEORGE HOLDING
Member of Congress



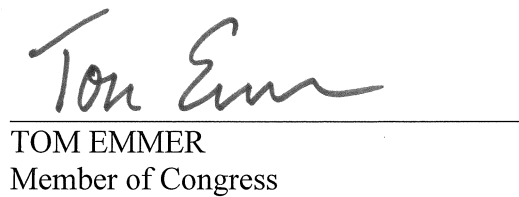
CURT CLAWSON
Member of Congress



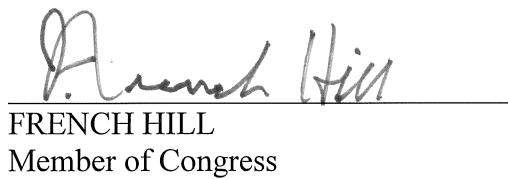
TIM WALBERG
Member of Congress



ROBERT E. LATTA
Member of Congress



TOM EMMER
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FRENCH HILL
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