

July 1, 2020

The Honorable Mitch McConnell
Majority Leader
U.S. Senate
Washington, DC 20510

The Honorable Charles E. Schumer
Minority Leader
U.S. Senate
Washington, DC 20510

Dear Leaders McConnell and Schumer:

Our organizations support including amendment 2193, offered by Sen. Ron Johnson, in S. 4049, the National Defense Authorization Act for Fiscal Year 2021. The amendment would achieve critical public- and private-sector goals, including:

- Protecting the supply chains of agencies, such as the Department of Defense (DoD), and businesses from U.S. adversaries.
- Clarifying section 889 of the FY 2019 NDAA (P.L. 115-232) to make implementation workable and stay consistent with lawmakers' original intentions.
- Deferring, by one year, the effective date of section 889(a)(1)(B), commonly referred to as part B, to August 13, 2021, which DoD officials have urged Congress to support.

Our groups have ongoing concerns about the sweeping, unclear compliance language in part B. We want to resolve the uncertainties in the requirements in collaboration with lawmakers and agency officials before the law goes into effect in about 45 days. However, resolving these concerns via formal comments and related advocacy has not been possible because the rule to implement part B has not been released for public comment.

Part B bans agencies from contracting with a provider that “uses”—a term that is not defined in law or regulation—any covered equipment or service in its supply chains, even if the provider does not know the covered technology is being used for governmental or commercial work. Thus, U.S. providers will be barred from supplying essentially any service or good, such as personal protective equipment, needed to fight the coronavirus, to agencies.

Even small and midsize businesses with mostly domestic footprints will be negatively affected by part B owing to the interconnected nature of trade and supply chains. Both policymakers and businesses have a shared interest in modifying the implementation schedule and making practical changes to the underlying law.

We look forward to continuing to work with you to reduce risks to our nation's supply chains and make section 889 achievable.

Sincerely,

Aerospace Industries Association (AIA)
Airlines for America (A4A)
American Bankers Association (ABA)
American Fuel & Petrochemical Manufacturers (AFPM)
American Moving and Storage Association
American Trucking Associations (ATA)
Alliance for Automotive Innovation (Auto Innovators)
American Automotive Policy Council (AAPC)
Associated General Contractors of America (AGC)
Cargo Airline Association
Computing Technology Industry Association (CompTIA)
Global Business Alliance (GBA)
Information Technology Industry Council (ITI)
International Association of Movers (IAM)
National Air Carrier Association (NACA)
National Defense Industrial Association (NDIA)
National Motor Freight Traffic Association (NMFTA)
Motor & Equipment Manufacturers Association (MEMA)
Professional Services Council (PSC)
Security Industry Association (SIA)
The Center for Procurement Advocacy (CPA)
U.S. Chamber of Commerce

Cc: Members of the U.S. Senate
Members of the House Armed Services Committee
Members of the House Oversight and Reform Committee